

DESIGNING AND OPERATING HOMEOWNERSHIP PROGRAMS ON TRIBAL LANDS



PREPARED BY

The New Mexico Tribal Homeownership Coalition

CREATED IN PARTNERSHIP WITH

The New Mexico Mortgage Finance Authority and Enterprise Community Partners

SUPPORTED BY

U. S. Department of Housing and Urban Development
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Revisions to this edition by Ed Rosenthal for Enterprise Community Partners with help from Susan Anderson, copyediting by Carrie Wagner, and design by Mia Scharphie of www.creativeagencyco.com.

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This guide was developed in partnership with Enterprise Community Partners and the New Mexico Mortgage Finance Authority (NMMFA) with funding support by the Housing and Urban Development (HUD) Capacity Building for Community Housing Program. The substance and findings of the work are dedicated to the public. The author and publisher are solely responsible for the accuracy of the statements and interpretations contained in this publication. Such interpretations do not necessarily reflect the views of HUD.

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DEDICATION

This revised manual is dedicated to the memory of Eric Schmeider who as Tribal Liaison for the New Mexico Mortgage Finance Authority worked tirelessly as the guiding spirit of the New Mexico Tribal Homeownership Coalition. He was a dedicated and effective advocate for affordable housing, especially in Indian Country.

The authors of this revised manual want to make a special acknowledgement to Deborah Webster, who as the first director of Enterprise's Native American Housing Program was responsible for much of the material contained in the original manual. The authors would also want to thank and acknowledge the great amount of assistance in preparing this revised manual received from individual members of the New Mexico Tribal Homeownership Coalition.

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1

INTRODUCTION



Navajo Elder Home

WHY THIS GUIDE?

The purpose of this guide is to offer tribal leadership in New Mexico with a comprehensive overview of the steps required to create homeownership programs on reservation land, with a particular focus on the mortgage lending process.

The first edition of this guide was published in 2004. Since that time, there has been considerable progress made by the pueblos and tribes in New Mexico in developing affordable homeownership opportunities for their members. However, there is still a substantial need to address the housing needs of members of pueblos and tribes in New Mexico and although numerous Native communities have begun to address the serious housing needs of members, much more needs to be done.


This guide provides an introduction to the basic elements of the mortgage loan industry, the organizations that work within that industry, and their roles and responsibilities. It also provides an assessment of the barriers to homeownership that have existed on reservation land. Reflecting on the considerable progress that has been made

in providing homeownership opportunities to tribal members, this revised manual also includes a number of “Best Practice” case studies that detail the innovative programs already implemented.

This guide will help you to introduce mortgage lending processes on reservations in a way that:

- Leverages existing federal funding so that you can significantly increase financial resources for housing on reservation land
- Leverages government and private mortgage programs and resources for housing on reservation land
- Allows tribes or tribal affiliates to develop or sponsor many more homes for ownership by tribal members
- Helps tribes manage the mortgage process on tribal land.

This guide will help you implement mortgage lending to leverage existing federal funding so that you can significantly increase financial resources for housing on reservation land.



MISSION OF NEW MEXICO TRIBAL HOMEOWNERSHIP COALITION

The New Mexico Tribal Homeownership Coalition created this guide to help fulfill its mission of promoting homeownership opportunities on Indian reservations in New Mexico. The Coalition is working collectively to provide resources and technical assistance to pueblos and tribes in New Mexico interested in developing mortgage programs.

The New Mexico Tribal Homeownership Coalition is comprised of homeownership professionals dedicated to increasing housing opportunities for tribal mem-

bers through advocacy, technical and financial assistance, and implementation of housing programs.

The Coalition is broad-based and open to all. The All Indian Pueblo Council (AIPC) endorsed the Coalition in Resolution 1999-42, "Support for the New Mexico Tribal Homeownership Coalition" in November 1999.

TRIBAL GUIDE TENANTS

Three fundamental tenets guided the development of this guide:

First, the lack of capital is a critical barrier to housing development and homeownership in tribal communities, and increasing access to financial resources for housing is vital to the long-term growth and prosperity of the tribal community.

Second, bank loan products such as mortgages enable tribes to leverage federal and state government funding and to increase

housing production in their communities. Where applied appropriately, mortgage financing can help tribal members achieve homeownership.

Third, the ability to secure substantial private capital resources for housing on tribal lands is essential to improving housing conditions; tribal governments must carefully manage the mortgage lending process in order to take advantage of these resources, while at the same time preserving tribal lands and social customs.

IMPORTANCE OF HOUSING AND HOMEOWNERSHIP TO TRIBAL COMMUNITIES

Providing decent, affordable housing is one of the most important challenges facing tribal leadership in New Mexico today. Studies suggest that affordable housing is a key element to any effort by low-income households to attain economic self-sufficiency. Communities need a range of housing to accommodate varying incomes, household sizes, and housing preferences. And communities thrive when

housing reflects cultural traditions and incorporates careful design and quality craftsmanship.


Despite making significant advances in addressing the housing needs of their communities, the tribes and pueblos in New Mexico are still lacking in the quantity and quality of affordable housing needed. This holds true for a variety of reasons, some of which are explored in this guide. In addressing the need for housing, tribal leaders are faced with:

- Providing housing opportunities for tribal members of all incomes
- Helping tribal members remain on reservation lands
- Allowing tribal members living off reservations to return
- Reducing the influx of mobile homes financed at high interest rates
- Laying the foundation for healthy and viable communities

Developing housing that is sustainable, energy efficient, and which displays the cultural norms of the community


Tribal governments must carefully manage the mortgage lending process in order to take advantage of these resources, while at the same time preserving tribal lands and social customs.

Providing housing is only part of the job. Economic development, job creation, quality education, health care, and infrastructure improvements are also critical needs. However, housing is the necessary first step.




Providing housing is only part of the job. Economic development, job creation, quality education, health care, and infrastructure improvements are also critical needs. However, housing is the necessary first step for many communities, as it is for many individuals. Off-reservation, most small business owners use home equity loans to

finance start-up costs. With mortgage lending limited on trust lands, the opportunity to use home equity (i.e. the owner's value in a home) to start a small business is correspondingly limited. As homeownership becomes more prevalent on Indian reservations, however, small business and economic development growth will surely follow.



“Implementing mortgage financing is very challenging because it is so new to our community members even though it has existed for some time.”



*Tomasita Duran, Executive Director
Ohkay Owingeh Housing Authority*

IMPLEMENTING HOMEOWNERSHIP PROGRAMS

A STEP BY STEP GUIDE

1 ASSESS YOUR HOUSING AUTHORITY'S SITUATION

- ? What is the status of your last few audits?
- ? Do you have issues of nonpayment and need enforcement from tribal leadership?
- ? What is the maintenance status of your housing stock?
- ✓ Educate yourself on financial options and leverage *see pages 16, 90-113*

2 EDUCATE TRIBAL LEADERSHIP

- ✓ Educate board and tribal leadership on housing situation and advantages to homeownership
- ✓ Discuss sovereignty tradeoffs to mortgage lending
- ✓ Request support for enforcement and/or additional staff capacity
- 📄 *What are the tradeoffs of developing housing the new way? see page 17*

3 SURVEY COMMUNITY HOUSING NEEDS

📄 *Template: Survey see page 104*

4 DEVELOP SUPPORT FOR OPERATIONAL COSTS

Some options:

- * Fees from homeownership (origination, etc.)
- * IHBG Funds
- * Tribal mortgage buybacks *see page 51*
- * Section 4 grants
- * Private & public grants

5 DEVELOP HOMEOWNERSHIP PROCEDURES AND POLICIES

If you decide to implement leverage:

- ✓ Develop & pass mortgage ordinance *Note: Strengthen legal protections for tribe. see page 221*
- ✓ Obtain BIA leasehold precertification *see page 65 & HEARTH Act Appendix*

6 Which roles will you play for homeowners?

Based on your capacity & your community members' ability to qualify for mortgages on their own.

Note: All prospective homeowners should take homeownership education. Many programs exist that you can partner with or import.

A INFORMATION PROVIDER

- ✓ Develop relationships with potential lenders
- ✓ Provide prospective homeowners with information and introductions
- ✓ File and record BIA leaseholds

B QUALITY SUPPORT

- ✓ Construction oversight of private contractors

C MORTGAGE FACILITATION

- ✓ Train staff read credit reports, assess family situation
 - ✓ Train staff to become knowledgeable about lending process
- Note: There are tribal organizations that can be contracted to do this.*

D HOMEOWNER COUNSELING

- ✓ Work with families to repair credit
- ✓ Develop savings programs to build financial habits
- ✓ Offer financial literacy and homeownership maintenance classes

7

Will you be a lender?

YES

DECIDE WHICH PRODUCTS YOU WILL OFFER

- * Direct mortgages
- * Construction loans
- * Downpayment & Closing assistance
- * Emergency default fund

Note: products can also be offered to homeowners as grants, not loans

Other questions to consider:

Is it worth becoming a CDFI?

Note: You can also partner or contract with existing CDFIs.

NO

8

Will you be a developer?

YES

Will you develop scattered sites or neighborhood development?

SCATTERED SITES

- ? How big is your need?
- ? Do you have land to develop or can the tribe donate?
- ? Can you achieve your community goals better by designing a neighborhood?

NO

Questions to Consider

NEIGHBORHOOD DEVELOPMENT

CREATE A MASTER PLAN

- ✓ Hire a architect or planner
- ✓ Raise money: there are planning grants available see page 90
- ✓ Incorporate community engagement see page 75, 81

CONSIDER CULTURAL & DESIGN ISSUES

See case studies of tribal design at SNCC: sustainablenativecommunities.org/case-studies

INFRASTRUCTURE PLANNING

- ✓ Investigate infrastructure needed
- ✓ Can you dovetail with existing projects?
- ✓ Work infrastructure into financial planning see page 90 for funding sources

DEVELOPMENT!



It's not over yet... Continuing to work with families once they're in homes to pay and maintain their homes is key to community stability.

2

BACKGROUND



Santo Domingo, New Mexico

THE OLD WAY: LOW RENT AND MUTUAL-HELP PROGRAMS

Since 1962, HUD's Office of Native American Programs (ONAP) has provided funding to Indian Housing Authorities (IHAs) in American Indian and Alaskan Native communities. Before the passage of the Native American Housing Assistance and Self-Determination Act of 1996 (NAHASDA), this funding constituted the majority of all resources for housing in tribal communities. There were many problems, however, with previous HUD programs.

First, the funding assistance was restricted to low-income tribal members. Second, the Low Rent and Mutual Help Programs created a proscribed development process with limited vision for creative, culturally appropriate site and housing design. Finally, the amount of funding available was inadequate. As a consequence, IHAs could not build enough homes to meet the housing requirements of their communities, often could not maintain homes they did build, and had to build without regard to sustainable and traditional designs and

layouts. In too many instances, the only homes available to tribal members were little box-shaped houses in unattractive subdivisions. It was housing that could be identified as "government" housing, and its residents tended to treat it as such—compounding problems with poor maintenance.

Income restrictions left tribal members who exceeded income limits with few options. There was virtually no homeownership market, private development, or mortgage

lending on reservations. To make matters worse, there were few advocates in Indian Country working towards the development of new homeownership opportunities. In this environment, over-income households faced difficult choices: they could buy a mobile home, try to build their home without mortgages (usually with exorbitant interest rate credit card financing), or move off the reservation.

Insufficient funds for low-income members and little or no mortgage credit have led to a severe shortage of adequate housing on New Mexican pueblos and reservations. Long waiting lists have led to overcrowding and political selection procedures. In some cases, Mutual Help Programs have created communities in which families own their homes but

enjoy little or none of the benefits of homeownership. They have no financial investment in the home, little or no say about its design and, consequently, little pride of ownership.

Unlike rental or Mutual Help housing on reservations, homeownership financing almost always has an element of funding that is distributed through loans rather than grants. Earlier homeownership efforts in tribal communities, like Mutual Help, were usually federally funded, heavily bureaucratic, and involved no private sector financing. Mutual Help was subject to federal funding allocations and design guidelines, among other regulations and restrictions. It was available to households without requirements based on the ability to repay a loan; monthly payments were calculated as a

percentage of income. In contrast, homeownership is available primarily to households with steady income and takes into consideration debts and other obligations.

Whether funded by government or private sources, homeownership financing involves a mortgage. On trust land, a mortgage is a pledge of the borrower's leasehold interest against the loan used to buy or construct the home. If the borrower cannot make the payments, the lender can take title to or repossess the leasehold interest in the land—including the home—through a foreclosure process. Before any tribal community or tribal member embarks on a path toward homeownership, a full understanding of the mortgage and foreclosure process is essential.

In this environment, over-income households faced difficult choices: they could buy a mobile home, try to build their home without mortgages, or move off the reservation.



**EXERCISING SOVEREIGNTY:
LEVERAGING NAHASDA
AND OTHER RESOURCES
FOR HOMEOWNERSHIP**

NAHASDA offers tribal governments some clear advantages over earlier housing laws and programs. Although NAHASDA funding levels are still too low for tribes to fully address housing shortages, the law does allow tribal governments to:

- Design housing programs better suited for their members
- Leverage federal block grants with private funding
- Set-aside a portion of funding for families with higher incomes in need of housing

- The ability to leverage government subsidies with bank and other private investment is the key to building more and better homes for tribal members.

While NAHASDA is focused primarily on low-income households, tribes can use NAHASDA funds to leverage government-guaranteed and conventional loans for homeownership, thereby providing more housing options to members of all income levels.

For instance, in using more

bank funding for moderate-income homeownership, tribes are able to preserve block grant funds to build more rental housing for poorer households. In the leveraging example given rather than building a total of four homeownership units, the Tribally Designated Housing Entity could have used \$150,000 in bank financing to build two homeownership units and the \$150,000 in NAHASDA funding to assist in the construction of low-income rental housing.

By leveraging NAHASDA

funding, tribes are also able to create mortgage programs to allow households to enlarge existing homes, renovate deteriorated houses, or refinance mobile homes at reduced interest rates or for longer terms, among other possibilities.

Although the number of tribal members who can afford to finance their own homes is increasing, it is still difficult to buy or build a

home on reservation land. Given the growing demand, the New Mexico Tribal Homeownership Coalition is working collectively to serve as a resource to tribal leadership seeking to take advantage of the new flexibility under NAHASDA to make homeownership available on their reservations.

COMMUNITY BENEFITS AND RESPONSIBILITIES

Homeownership is not for everyone. However, careful home-buyer education can extend the benefits of homeownership to additional tribal members, including those with lower incomes and histories of poor credit.

The advantages of homeownership for those who

Leverage *The action of a lever or the mechanical advantage gained by it.* -MERRIAM-WEBSTER'S COLLEGIATE DICTIONARY

“Leverage” is a term that is used so often—and often so differently—by government agencies and other sources that it is sometimes hard to understand what it means. An example helps to illustrate the meaning:

Under the old HUD programs, ONAP provides \$150,000 in IHBG grant funding to an IHA. The IHA uses that \$150,000 to build two \$75,000 Mutual Help houses for two families, using no other funding. Net result: two homes.

Under NAHASDA, ONAP provides \$150,000 in IHBG grant funding to a Tribally Designated Housing

Entity. The TDHE uses the \$150,000 grant, blends it with \$150,000 in bank mortgage financing and builds four \$75,000 homes for four families. Net result: four homes.

In this second case, the TDHE used the \$150,000 grant to create a program that allows individual tribal members to “leverage” bank financing. This leverage frees grant money that allows the TDHE to build two additional homes for tribal members. Each of the households will need to pay a monthly mortgage on a bank loan of \$37,500. Some families will have adequate incomes to build houses without NAHASDA or IHBG assistance.



PROS AND CONS OF EXPANDING HOUSING PROGRAMS THE NEW WAY

FOR TRIBE:

PROS

- Strengthens the economy through investment in homes, furniture and appliances
- Promotes stronger communities and good schools
- Provides housing opportunities for professional and middle-class tribal members who would like to move back to the reservation, bringing both wealth to the community and models of employment for children and youth
- Tribe or pueblo can negotiate with lenders to ensure that Tribal and Pueblo concerns are addressed in drafting policies and procedures
- Creates an economically diverse community

CONS

- Tribe or Pueblo must enact foreclosure and eviction procedures acceptable to lender
- Tribe or pueblo might have to relinquish certain aspects of Tribal Court jurisdiction
- For some funding sources Tribe or Pueblo may have to provide long term leases to non-members

FOR TRIBAL MEMBER

PROS

- Builds family asset base
- Owners can use equity in home to start up business
- Allows individual decisions about homes in terms of design, expansion, occupancy and inheritance (subject to tribal law and custom)
- Secures housing now and for the future at a predictable monthly cost
- Stabilizes family

CONS

- Homeownership requires certain upfront costs that include down payments and closing costs
- It transfers the responsibility for maintenance and up keep from the tribe to the homeowner
- Failure to make mortgage payments will result in the loss of the home and any investment made
- If foreclosed and evicted, family may lose traditional assigned lot



Housing groundbreaking in Apsaalooke Crow Nation, Montana

can afford to buy—and maintain—a home far outweigh the disadvantages. In most instances, homeowners can:

- Build wealth as the equity in their homes increases
- Make decisions about their homes in terms of design, expansion, occupancy and inheritance (subject to tribal law and

- custom)
- Secure housing now and for the future at a predictable monthly cost
- Create an economically diverse community

Homeownership also carries certain risks, responsibilities, and burdens that make it inadvisable for certain households, including those with very low or sporadic income. These risks include:

- Homeownership requires certain upfront costs that include down payments and closing costs.
- It transfers the responsibility for maintenance and upkeep from the tribe to the homeowner.
- Failure to make mortgage payments will result in the loss of the home and any investment made.

In most cases, homeownership benefits not only the homeowner, but also the community.

Studies indicate that homeownership can:

- Strengthen the economy through investment in homes, furniture, and appliances
- Promote stronger communities and good schools
- Provide housing opportunities for professional

and middle-class tribal members who would like to move back to the reservation, bringing both wealth to the community and models of employment for children and youth.

Tribes that promote individual homeownership in tribal communities should be aware of the importance of community and land use planning. Scattered site homeownership can have unexpected consequences

for the infrastructure or landscape of a community, including sprawl around historic sites, proliferation of roads, intrusion on important scenic areas, and impacts on religious sites. Housing subdivisions, as tribes have seen with HUD projects, can have severe consequences for family and community.

Equity

The money value of a property . . . in excess of claims or liens against it.

-MERRIAM-WEBSTER'S COLLEGIATE DICTIONARY

Homeownership allows a homeowner to accumulate wealth if the value of the property increases as he or she pays down the mortgage. This accumulated wealth—the difference between what a homeowner owes and what the home is worth—is called “equity.”

Equity is one of the principal financial advantages to homeownership. Even in real estate markets where the value of property is not rising, homeowners’

equity increases because they are paying off their mortgages over time. A renter who pays as much or more in rent as his or her neighbor pays in mortgage payments earns no equity.

Homeowners can obtain equity loans at an affordable interest rate to buy a car, start a business or send a child to college.



3

CHALLENGES



Ohkay Owingeh Owe'neh Bupingeh

BARRIERS TO FINANCING HOMEOWNERSHIP DEVELOPMENT

Homeownership is not new to tribal environments, but the rate of homeownership on tribal lands lags behind the national average of 63 percent. The disparity between tribal and non-tribal homeownership development is attributable almost entirely to the absence of mortgage financing.

As discussed earlier, federal programs historically were targeted to low-income rental and Mutual Help housing. Mortgage lenders generally would not provide private mortgage financing to prospective home buyers on tribal or trust lands. As a consequence, tribal members attempting to build homes on reservations had only their savings or credit cards as financial resources, making it difficult—if not impossible—to build a house.

A number of causes have contributed to the absence of mortgage financing. The most significant barriers stem from the legal issues surrounding land status and foreclosure. Tribes have been reluctant to place tribal land at any risk of foreclosure for clear historic, cultural, and political reasons.

In addition, lenders have been averse to lending in situations where they were unsure of their ability to foreclose as a remedy to nonpayment of a loan. The status of the land has raised questions for lenders about the value of the collateral. And lenders' uncertainty about legal infrastructure, legal precedent, and tribal courts has raised questions about exercising a legal claim where one does exist.

Other issues or barriers to homeownership include lenders' concerns about the homebuyer readiness of tribal members, the prevalence of poor credit histories, the lack of physical infrastructure on Native American lands, including water, waste water, fire safety and utility systems. Finally, because housing has traditionally been provided through HUD-funded Indian

Housing Authorities, tribal governments' roles have been limited, and few tribal resources have been committed to homeownership. This chapter details some of the past barriers to homeownership development on tribal trust land. These barriers are not insignificant, and many – if not most – still persist in most of New Mexico's tribal communities. However, there are mechanisms to overcome impediments to homeownership, and

Historically, tribal members attempting to build homes on reservations had only their savings or credit cards as financial resources, making it difficult – if not impossible – to build a house.

Chapter 4 outlines solutions to the issues raised here.

LEGAL ISSUES: TRIBAL CONCERNS OVER THE LOSS OF TRUST LAND STATUS

Confusion about tribal and federal restrictions against conveyance of land out of trust status has prevented tribal members from accessing traditional mortgage products, which require mortgaging lands and homes. Any possibility that a lender could subsequently foreclose, taking the land

away from the tribe and its membership, has been and remains unacceptable to tribal leadership for historic and political reasons. Previous federal efforts such as the Dawes Allotment Act, saw Native American land holdings fall from 138 million acres in 1887 to 52 million in 1934, a total loss of 86 million acres. As a consequence, legal protections against alienation of trust lands are now both essential and comprehensive. With the proper tribal laws governing a homeownership program, tribal leadership can protect its land from leaving trust status and/or Indian control in all situations.

Mortgage lending on tribal lands occurs using a leasehold interest in the land as collateral. A leasehold is temporary conveyance of tribal land to an individual tribal member. With a leasehold interest, ownership of the land remains with the tribe or with the federal government in trust for the tribe. The home buyer can obtain up to a 75-year residential lease of the trust land. The 75-year lease term is more than long enough for the

home buyer to build a home and to repay the loan or for a subsequent owner to repay the loan if the original borrower defaults. If a borrower defaults, the lender can foreclose on the leasehold mortgage and resell the leasehold to a third party; however, the third party's rights to the land may terminate with the end of the lease.

Each Native American mortgage loan program has its own process for resolving foreclosures. Tribal govern-

ments can also define their own foreclosure procedures in their mortgage codes. Most foreclosure procedures allow the tribe to approve the third-party purchaser from a pool of prospective purchasers or through advertisements; however, in the event the tribe cannot identify a qualified buyer to buy the leasehold itself, the bank or lender will sell to any qualified buyer, subject to any restrictions in tribal law (e.g., there may be a requirement that a new buyer be a tribal member).

The primary concern for an individual tribal member is the possible loss of a family land assignment. If a borrower defaults on a mortgage, the tribe may attempt to substitute another family member as a qualified borrower. If no family member is interested or qualified, the property may be offered to a tribal member from another family. Clearly, this is a significant risk that needs to be weighed carefully. Again, tribal governments can define this process in their mortgage codes.



Adobe Houses in Santo Domingo Pueblo, New Mexico

LENDER COLLATERAL REQUIREMENTS

Collateral—the pledge of something of value as security for a loan—is a fundamental component of most loan transactions. Banks and other lenders are not interested in the collateral itself (e.g. house or car). Rather, collateral is only a means to recover some or all of a defaulted loan. A bank’s business is financial services and lending; banks do not want to own and manage real estate.

Because trust land cannot be directly mortgaged, banks cannot use the land itself as collateral for mortgage loans. As a result, in order to avoid the potential complications and delays resulting from collateral requirements, some families on trust land have opted, or been forced, to purchase manufactured or mobile homes with a chattel or personal property loan instead of a

mortgage loan.

Banks and finance companies are willing to provide loans for these homes because they can be repossessed, hauled off, and resold if a tribal member fails to pay the loan as agreed. Mobile homes are trucked in and placed on blocks. If loan payments are not made, the lender can go to the tribal court and obtain permission to truck the home away. The land is not affected because there is no leasehold interest required for a chattel or personal property loan. However, interest rates on these types of loans for mobile homes are much higher than rates for mortgage loans, and often the terms of the loans are not as favorable to the borrowers. To help ameliorate the negative consequences of mobile homeownership in pueblo and tribal lands,

Native Community Finance (NCF), a Native Community Development Financial Institution (CDFI) housed on the Laguna Pueblo has become a licensed mobile home seller and has become a member of Next Step. This organization works with mobile home factories to provide affordable energy efficient homes. NCF is offering these efficient mobile homes to members of pueblos and tribes in New Mexico.

The federal government and private lenders have now developed mortgage products that accept a leasehold interest in tribal land as collateral for the loan rather than the land itself. As such, mortgage financing for permanent housing is now available where tribes have adopted mortgage codes acceptable to the federal and private

mortgage markets.

A home buyer purchasing a home with private financing through a mortgage loan will sign two important papers:

- A note, in which the borrower acknowledges that he or she has received money from the lender and agrees to pay it back with interest

on a monthly basis over a period of years. The borrower agrees that if he or she fails to make these monthly payments, the lender can demand immediate payment of the entire loan. The note is also known as the debt instrument.

- A mortgage, in which the borrower pledges the house and his or her right to use the land as

security or collateral and agrees that the bank or lender has a right to that property if he or she fails to make payments as required in the note. The mortgage is the security instrument. On trust land in New Mexico, the security pledge is the leasehold interest—the use of the land and the home itself.

Foreclose

To deprive a mortgagor of the right to redeem a mortgaged property, as when payments have not been made.

—MERRIAM-WEBSTER'S
COLLEGIATE DICTIONARY

In New Mexico off-reservation, if a mortgage borrower falls behind on payments, the lender usually makes every effort to work out the delinquency. But if the borrower falls three months past due, the lender will send a demand letter asking for the entire balance due within 30 days. The loan is “accelerated,” and full payment of the entire debt is requested.

After those 30 days have passed, the lender gives the case to a lawyer to begin the foreclosure. The case is heard in state court, and the court will order a foreclosure sale, which is a public auction. The lender can bid the debt owed, and in rare cases

other prospective purchasers may also bid. When the court approves the sale, a deed is issued to the lender or other successful bidder. The borrower has one month to “redeem” the property by paying cash for the price bid at the sale, plus interest.

After this redemption period is over, if payment is not made the lender has full ownership of the property and will resell it at the highest possible price in order to recover his investment.

New Mexico state law covers and allows for the enforcement of this procedure. On reservation, tribal leaders need to enact comparable laws to provide this legal framework.



TRIBAL AND LENDER LEGAL PROTECTIONS

Off trust land, the mortgage industry relies on an established set of federal and state laws and guidelines that provide a legal structure and protections to both home buyer and lender. This legal structure defines and governs ownership and transfer of ownership, use privileges, loan and mortgage documents, the form of mortgages or other liens on land and improvements, consumer protections, and lien rights of mortgage holders.

As a result of this legal structure, the entire mortgage process is predictable. Borrowers know their rights and protections. Lenders are assured of certain legal remedies if a loan is not repaid as agreed. Predictability leads in turn to efficiencies in scale, cost savings for both lenders and borrowers, increased competition among lenders, and greater inflows of financial resources through the activities of the secondary market.

In the past, there were few comparable legal structures for mortgage lending on reservations. In this environment, lenders needed to negotiate every transaction—a costly and time-consuming process. The uncertainty also extended to the tribal courts, where lenders sometimes felt they did not receive equitable treatment; banks and other private lenders sought to adjudicate legal disputes in state courts familiar to them.

Federal loan guarantees, direct loans, and non-government conventional mortgage loans which mirror the off-reservation mortgage loans and accept the leasehold interest have now been developed and are being used. Each tribe can have some control over the process depending upon how they draft their mortgage codes.

Today, tribal leaders are recognizing the demand for privately financed home-ownership from their members. As a result, they are learning the need to enact

tribal laws that afford legal protections and certainty to both borrowers and lenders and provide an adequate forum to resolve any legal disputes.

HOME-BUYER READINESS

While a Native American family may live in a home built on land passed down for generations, the home itself was probably built and improved as time, money, or materials were available. In all likelihood, no banks, mortgage lenders, mortgage brokers, or mortgage guarantors were involved. Financing a home is, in most instances, a new concept. As a result, even though many pueblos and tribes have instituted financial and home-buyer training programs, many Native American prospective home buyers have little understanding of the mortgage process. Many tribal governments may need to help develop programs that can assist their members in becoming ready to purchase a home with a mortgage.



Santo Domingo Heritage Walk Workshop

HOME-BUYER EDUCATION

In lower-income neighborhoods across the country, lenders have concerns about the readiness of prospective home buyers to take on the costs and responsibilities of homeownership. In urban neighborhoods, banks and non-profit community development organizations address homeownership readiness by offering training classes and workshops.

In New Mexico, pueblos and tribes are actively developing resources to address the need to create readiness for homeownership (Please see Appendix A, which is a description of a “Best Practice” in this area conducted on the Ohkay Owingeh Pueblo). In rural and Native American communities, however, more work needs to be done to develop programs

to support homeownership. On Native American reservations, moreover, these resources are harder to find. Tribal leadership must assist in the development of homebuyer education resources within their communities for their tribal membership.

CREDIT COUNSELING

Credit is a significant barrier to homeownership in many low-income and minority communities. Credit refers to a prospective borrower's history of making payments on financial obligations, including loans, credit cards, utility bills and rent. Banks and other lenders receive detailed individual credit histories from national credit bureaus that compile information from hundreds of different sources; these credit histories are a crucial part of the mortgage loan approval process.

For many lower-income Native American families, it is more difficult to obtain loans or credit cards, or to maintain good credit with scarce expendable income. Both no credit and bad credit create obstacles to homeownership because banks and mortgage lenders may not provide affordable mortgages to individuals with these credit profiles.

For many Native Americans, the difficulty in developing or maintaining a good credit history is com-

pounded by the prevalence of predatory lenders in their communities. These lenders make loans at very high interest rates to borrowers who have no other options if they want to buy a car or mobile home. High interest rate loans contribute to high rates of default and repossession and create severe credit problems for borrowers, affecting their ability to get a mortgage loan.

Tribal leaders must help overcome this barrier by identifying resources to develop credit counseling programs that can help members build or repair credit.

NEED FOR FINANCIAL ASSISTANCE TO HOME BUYERS

Mortgage financing provides a substantial portion of the purchase price or cost of a home, up to 100 percent in some cases. Even so, prospective home buyers need to have cash both at the time they sign a contract to buy the home (typically a percentage of the pur-

chase price) and at the time they actually purchase it. At purchase, buyers need to pay the difference between the amount of their mortgage and the purchase price plus closing costs. In many instances, this requirement exceeds the savings of prospective home buyers, even those who could cover the necessary mortgage payments and maintenance costs from their earned income.

For example, for the purchase of a \$100,000 home, a buyer might be able to finance up to \$88,000 in some instances, leaving a \$12,000 gap. With closing costs of approximately \$2,200, the buyer would need \$14,200 to complete the transaction—a considerable sum for a low-income family. Programs do exist for financial and closing cost assistance. Programs also exist to reduce interest rates as another means of closing the affordability gap for lower-income households. However until recently, these programs did not exist on tribal lands or were not used to attract

private mortgage financing. The New Mexico Mortgage Finance Authority (NMMFA) has a down payment assistance and rate reduction program which can be used in tribal communities. The Federal Home Loan Bank's

Affordable Housing Program (AHP) can also be used to subsidize mortgage programs. These and other programs are discussed in the next chapter.

Standardization & the Secondary Market

Any analysis of the mortgage financing system in the United States would notice one overwhelming trend: the move to standardization. There was a time when a home buyer went to a bank, sat down with a bank mortgage officer, discussed his or her job, loan payment history, and the amount of his or her savings.

Bank officers were trained in the three "Cs": collateral (the value of the home), credit (the borrower's loan payment history), and character. Banks now employ standard automated credit scoring systems to analyze credit histories generated by national credit bureaus that accumulate and report standard information on all types of financial transactions, including credit card payments, car and loan payments and tax arrears, among others. Home appraisals are performed on standard forms; employment verifications are generated on another standard form. Character is not considered, because

it is hard to reduce to a form.

There are several reasons for this move to standardization, but the primary reason is the secondary market. The secondary market consists of financial organizations—including the two largest secondary market entities, Fannie Mae and Freddie Mac—that buy mortgages from the banks and mortgage companies that make them. The secondary market is far removed from the individual home buyer and makes a decision to buy a mortgage based on standard calculations about the borrower.

However, home buyers benefit from this process too, because it increases the flow of capital to lenders. That allows them to originate more affordable mortgage loans, which in turn makes homeownership more accessible to low-income and minority communities.



LACK OF INFRASTRUCTURE

One of the most significant barriers to developing housing in rural areas is the lack of an adequate infrastructure for home sites, including water and sewer systems, utility systems, and roads. There are few funding options for infrastructure development. Beyond tribal funds, the two primary sources of infrastructure funding are Indian Health Service (IHS) and USDA Rural Utility Service. Nei-

ther source currently provides sufficient assistance, although the Black Mesa housing project on the San Felipe Pueblo has indirectly used both programs (Please see Appendix B).

Congress used to prohibit the use of IHS funding in conjunction with NAHASDA funds. However, it now permits recipients to use funding from IHS for the construction of sanitation fa-

cilities for housing construction and renovation projects funded in whole or in part with NAHASDA funds. IHS prioritizes existing units and has limited funding for new units, despite the strong need. The IHS may be able to provide some technical assistance with infrastructure development. Despite limited funding, it may be worthwhile consulting with the IHS to see what, if any, assistance they can provide.



USDA Rural Utility Service funds are largely spoken for in the New Mexico region for in-pipeline developments with two-to three-year timelines. Because NAHASDA and state programs mandate construction completion much faster, these funds are not as useful now as they might be in the future, when they can be better coordinated with housing funding.


The absence of available infrastructure funding invariably stalls—and at times stops—affordable housing developments on tribal land. Bank financing, even with loan guarantees, is not a viable source of funding for larger road and utility work. This is partly due to the land status (conveyance of leasehold interest does not include these improvements) and limits on the amount of debt financing that an affordable housing project can carry.

Financing the infrastructure for roads, water, waste-water, and utilities is essential to building. The absence of infrastructure improvements impedes homeownership development in three ways:

- It puts enormous burdens on tribal resources. TDHEs and individual home buyers must find other funds to complete infrastructure improvements, limiting funding for housing development and occupying significant staff time and resources.
- It impedes the development of a housing market, which impacts appraised values for homes.
- It increases the per-unit development costs, which pushes the total development costs beyond the reach of many potential home buyers.

Off-reservation, state and county governments usually subsidize infrastructure improvement because new subdivisions occupied by new homeowners will mean a larger tax base and growth that may repay in time the initial government expenditure. Local governments are less likely to subsidize infrastructure development in poorer communities, where an increased tax base may not cover increased demands on government. Even given

these limitations, several Native communities in New Mexico have overcome these obstacles in innovative and creative ways. A prime example (which is detailed in a “Best Practice” attached as Appendix B) is the Black Mesa project on the San Felipe Pueblo. When completed, Black Mesa will build out 160 new homes. This project avoided absorbing the costs of major infrastructure such as waste water systems and electric utility infrastructure since they were borne by a previous project developed on pueblo land (also see Appendix C, which lists some resources for infrastructure development).



**“To do anything
successfully with
tribal housing
you’ve got to be
very creative and
do what you can
this year—because
the budgets get cut
every year.”**

*Isaac Perez, Executive Director
San Felipe Pueblo Housing Authority*



LIMITED ROLE OF TRIBAL GOVERNMENT

The most successful housing and homeownership programs are those in which critical decisions about program design and implementation are made at a local level, involving community residents, community organizations, and the tribal government. Unfortunately, on many Native American reservations, little local involvement occurred in the past. Indian Housing Authorities were the exception, but IHAs served primarily to implement the policies and priorities of off-reservation,

federal agencies. The results are all too clear today: insufficient and substandard housing and high indices of poverty, need, and unemployment.

The lessons of underserved minority communities suggest that affordable housing development requires strong community advocacy for housing, such as a group of concerned citizens, a non-profit organization, or enlightened local government. Federal government policy prior to NAHASDA encour-

aged little, if any, involvement from tribal government with respect to housing or homeownership.

With the enactment of NAHASDA, tribes have more authority and more responsibility to make decisions affecting housing and homeownership, albeit inadequate funding remains a challenge. The next chapter of this guide covers what a tribal government should do to ensure a strong homeownership program on its reservation.

4

OPPORTUNITIES



Sail River Heights Subdivision, by Makah Housing Authority, Neah Bay, WA

ROLE OF TRIBAL GOVERNMENTS IN CREATING HOMEOWNERSHIP OPPORTUNITIES

This chapter provides concrete suggestions on ways that tribes can overcome the traditional barriers to mortgage lending in Indian Country and bring in significant amounts of private financing in a controlled and cost-effective manner.

Homeownership development for low and moderate-income households is a complicated process. It requires a number of different roles featuring different experience levels and expertise, including: infrastructure development, housing development, homeownership counseling and training, program design, mortgage underwriting, and mortgage packaging, among others. A comprehensive, effective homeownership development program is like a machine with many moving parts.

There are two, sometimes conflicting, factors that tribes need to weigh when considering the design and implementation of a homeownership program:

Complexity: Prospective home buyers need assistance navigating the process. In

order to provide continuity for the home buyer, this assistance is best provided by one organization that either offers the full range of services or coordinates services provided by it and other organizations. In either case, one organization functions as a one-stop mortgage center for home buyers. This is particularly important in a tribal context where a one-stop center that is familiar with the unique cultural and economic characteristics of the community can mediate between tribal members, tribal agencies, and external organizations such as banks, secondary market institutions, and federal agencies.

Cost: The variety of different roles and areas of expertise needed to run an effective program sets a high bar for the quantity and quality of staff required. Tribes

need to assess whether there is a sufficient market for homeownership to justify a number of full-time staff positions, whether there are operating funds to support staff, and whether there are existing organizations that can fill some of the program needs. The result of this assessment will help tribes determine the best organizational structure for the one-stop mortgage center; this may take the form of a separate nonprofit organization, an unincorporated tribal entity, or an initiative under an existing Housing Authority or TDHE (Appendix D offers an outline of these major options in mortgage financing).

ESTABLISH LEAD AGENCY OR ONE-STOP MORTGAGE CENTER

The cornerstone to an effective, coordinated homeownership program in a tribal community is the designation of a lead agency to oversee the development and implementation of the program. It's up to the tribal government and the community to decide the best

candidate for serving as a one-stop mortgage center. In some cases the best candidate may be a new entity.

ANALYZE APPROPRIATE ORGANIZATIONAL STRUCTURES

A one-stop mortgage center could take a number of different organizational forms. The form of any organization is usually predicated on its purpose. Therefore, the tribe should first conduct strategic planning sessions to identify the homeownership services and products to be delivered. Then, the tribe should determine the best form for the entity. As noted above, demand for homeownership is one primary factor in determining the best structure. Other related considerations include: operating funding; compatibility with existing organizations and government agencies, both on and off the reservation; cost; and ease of implementation. It is important to obtain advice from legal counsel on the advantages and disadvantages of each.

Some structural options include:

- Nonprofit organizations, both state incorporated and tribally-incorporated
- Unincorporated tribal subsidiaries
- Tribal departments
- Initiatives under an existing housing authority or TDHE
- For-profit companies
- Other tax-exempt structures, such as Section 17 corporations

DETERMINE THE ROLE OF A ONE-STOP MORTGAGE CENTER

A one-stop mortgage center can perform a variety of functions depending on the needs of the tribal community. Its knowledge of tribal needs, culture, laws, and practices, on the one hand, and government and private-sector processes and mortgage financing requirements on the other, allows a one-stop mortgage center to bridge the gaps between lenders, customers and tribal governments. The specific needs and market gaps in each tribal commu-

nity will determine the actual roles that a particular mortgage center will fill. Where there are strong existing organizations providing some services, the mortgage center will concentrate on partnering with these organizations. In every case, the mortgage center should help tribal members navigate the various federal, tribal, and private-sector homeowner-ship requirements.

Through its membership, the New Mexico Tribal Homeownership Coalition can provide expertise and guidance to tribal mortgage centers to identify the best possible mix of programs. All programs should be available, but with counseling from the mortgage center each home buyer should be able to identify and access the best and least expensive mortgage loan for his or her personal situation.

One-stop mortgage centers may also take on one or more of the following tasks:

Market Homeownership Opportunities

For many rural, remote tribal communities, this

task may be handled in-house. The mortgage center must develop expertise in mortgage finance programs in order to properly promote the programs. This may include conducting community and one-on-one meetings with potential homeowners to explain the mortgage programs and to negotiate loan terms for the benefit of the tribal members (see the section titled "Evaluate Mortgage Financing Products" later in this chapter). Monthly payment "shock" is tested during marketing. The shock can be significant if the current mortgage payment is 15 percent of the buyer's monthly income and the new mortgage payment will be 33 percent. It is important to differentiate between what people will pay versus what people can pay.

Conduct Home-Buyer Education Courses and Credit Counseling

One of the most important steps in the homeownership process is home-buyer education and credit counseling. This is particularly true for low-income and Native

American households for whom mortgage financing may be a new concept.

Native American home buyers need education in a variety of areas. Home-buyer education and credit counseling is generally divided into four different phases: pre-qualification interview, pre-purchase counseling, post-purchase counseling and mortgage delinquency and default resolution. (Please see Appendix A describing such a program implemented on the Ohkay Owingeh Pueblo).

Pre-qualification interview: During this interview the mortgage center determines a family's or individual's ability to qualify for a mortgage. Staff from the mortgage center will obtain information on income and debt, analyze credit reports, and calculate the key income-to-debt ratios for various mortgage programs. If the family or individual does not qualify, the staff will help them develop a long-term work plan to qualify in the future. This plan may include restructuring debt, repairing

The Ohkay Owingeh Housing Authority (OOHA) was established in 1996 by the Ohkay Owingeh Tribal Council with the mission to provide the planning, development, construction, management, and operation of safe, decent, and healthy housing opportunities for tribal members while taking into consideration the importance of the tribal culture and traditions for current and future generations. The values of education, serving families with trust, competency, and respect with support from Tribal Council and OOHA Board are incorporated into every project. The goal of OOHA is to become self-sustaining by providing housing services to the community of Ohkay Owingeh and its surrounding communities. Since OOHA's establishment, it has taken on a housing stock of 146 units under the Mutual Help program and conveyed title to 116 families through the homebuyer process. It has a remaining housing stock of 30 units. OOHA has also developed Tsigo Bugeh Village, a Low Income Housing Tax Credit project of 40 rental units with a community center of 2700 square feet and 5 homeownership units. The Owe'neh Bupingeh Rehabilitation Project has rehabilitated 34 homes located in the pueblo core area and has been a nationwide, award-winning project.

Since its inception, OOHA's focus has been homeownership: converting from a HUD defunct Mutual Help program to true homeownership through mortgage financing. Educating the community on the 184 HUD loan program has been challenging. Mortgage financing has never been utilized on the pueblos prior to 1996. Many tribal members lack budgeting experience, have no credit or bad credit, no savings, and are caught in predatory loans with extremely high interest rates (e.g. 500%). These financial barriers to homeownership have been demonstrated throughout Indian Country and are not isolated to the Ohkay Owingeh Pueblo. OOHA Executive Director Tomasita Duran notes that in addition to the need for financial literacy, part of the education process is developing the understanding among community members that the old system of HUD housing no longer exists, and that mortgage financing is the current and future option for homeownership.

In order to provide mortgage education and financial literacy to members of the community, OOHA started a homeownership program that is overseen by the Executive Director. There are currently two homeownership counselors that are certified as financial education trainers. These

two staff members provide financial and homeownership education and counseling services to a housing stock of 30 families within the Mutual Help program. The LI-HTC program includes 40 families, and 39 families are on a waiting list for new housing. The home ownership program utilizes the First Nations Oweesta Corporation's [Building Native Communities: Financial Skills for Families](http://www.firstnations.org/knowledge-center/financial-education/bnc) (WWW.FIRSTNATIONS.ORG/KNOWLEDGE-CENTER/FINANCIAL-EDUCATION/BNC) curriculum. Notices related to the financial education program are provided through the OOHA newsletter, the tribal billboard, TBV's marquee, and postings at all traffic areas. A monthly open house is provided by OOHA where information is shared with the community on all services provided by OOHA with an emphasis on homeownership. The process of preparing a family for mortgage financing is often quite lengthy. It may take several years to clear up credit scores, debt, and develop a budget as well as prepare a family financially and mentally to make monthly mortgage payments. In working with families, other social issues are often discovered and there is a need to get other services involved. Getting a family mortgage-ready takes a tremendous amount of commitment from the family and the homeownership counselors.

Seeing a lack of financial products available to the members of its community, the Ohkay Owingeh Pueblo developed Cha Pi-yeh, Inc. (CPI), the tribe's Native Community Development Financial Institution (CDFI), in 2009. To ensure its community members can grow and maintain financial assets, borrowers receive financial education,



"I've spent the last, I have to say, good 10 years explaining to the community why the Mutual Help Program no longer exists. It's never coming back."

*Tomasita Duran, Executive Director
Ohkay Owingeh Housing Authority*

homeownership counseling, and financial fitness with budgeting plans that include credit repair. CPI was developed through the housing authority with \$500,000 committed to developing the CDFI. Additional capital and funding was raised through the U.S. Department of Treasury and other early grants to develop the organization. OOHA helped establish the board, loan committee, and staff for CPI. Currently CPI has a director, loan officer, and part-time book keeper. OOHA provides accounting services and partners with CPI on financial education. The memorandum of understanding between the organizations includes a goal for CPI to eventually become completely independent. CPI is currently growing slowly, but smartly. With very

few Native CDFIs in existence, much of the process has been learning as they go. The long-term vision for CPI is to provide its services beyond Ohkay Owingeh and to partner with surrounding pueblos to serve their community members. The CDFI provides lending opportunities that have never been afforded to people living on the reservation. It offers the following services to community members of Ohkay Owingeh:

- Home-Owner Refinancing that helps families eliminate predatory housing loans and can also finance needed home improvements. Loans begin at \$5,000 and up to 95% of the appraised value. Qualifying interest rates are 5.5%.

- Housing Rehabilitation is available to finance rehabilitation for owner-occupied and rental homes on the reservation. Loans begin at \$5,000 and qualifying interest rates are 5.5%.
- Signature Loan is designed to help individuals who have an emergency or general need for a loan from \$500 to \$3,000. Interest rates are 15% with 18-month terms.

Oyee Pin Estates is a new subdivision being developed by OOHA. There will be 16 homes developed on lots approximately 100 ft. x 100 ft. This project is geared toward families who qualify for a mortgage to purchase the homes from OOHA. The infrastructure for Oyee Pin Estates has been completed, including all wet/dry utilities along roads curb and gutter. The lots are ready for housing, and 16 families are in the process of qualifying for their 184 HUD loan to purchase or develop a home. OOHA is collaborating with First Tribal Lending to provide the 184 HUD loans to the families. Prior to First Tribal Lending receiving an applicant, OOHA homeownership counselors prequalify families. Cha Pi-yeh, Inc. (CPI) is an additional player in the project, and will provide mortgage financing for those families who do not qualify for a 184 HUD loan. The families qualifying for the 184 HUD loans or CPI loans have been participating in homeownership counseling under the homeownership program through weekly meetings to monitor their action plans. CPI and OOHA jointly deliver the homeownership counseling and education program.

INNOVATION SPOTLIGHT

Cha Pi-yeh has partnered with Wells Fargo, utilizing their youth curriculum to implement the Youth Credit Opportunity, (YCO). This summer program helps young adults ages 18 to 25 to understand and build positive credit with small loans from \$500 to \$2,500. YCO is run during the summer so that it is available in tandem with the tribal youth employment session. CPI and OOHA see the need to start financial education early, and know that youth are the future home buyers.



credit issues, and increasing savings.

Pre-purchase counseling:

This includes budgeting and financial management, purchasing procedures, mortgage financing, savings for down payment and closing cost

Post-purchase counseling:

This includes training on maintaining a home and on budgeting for mortgage obligations.

Mortgage delinquency and default resolution:

This includes guidance on restructuring debt and methods to avoid default and mortgage foreclosure.

A number of organizations have substantial experience and expertise in delivering home-buyer education courses and credit counseling sessions. In addition, many home-buyer courses are available in print or electronic

formats. However, very few organizations and curricula are targeted to Native American communities; a tribal one-stop mortgage center would very likely need to provide new or augment existing homeownership counseling and training.

Every home-buyer or homeownership counseling course or training has variations and different emphases. Some common recommendations for developing a strong home-buyer education program include:

- Have minimum entrance requirements
- Get to people early in the home-buying process
- Pre-qualify and counsel clients in the intake interview
- Do not turn away unqualified applicants, but give them a plan and a timeline to success
- Offer training after

initial intake and individual counseling

- Provide in-depth training—a standard eight-hour course may not be sufficient
- Provide ongoing counseling as required through one-on-one meetings

The mortgage center will evaluate the home buyer by looking at the prospective borrowers' finances in five ways using the same criteria as the mortgage lenders: Savings tells a bank whether the borrower can provide the down payment and closing costs required at closing, as well as whether he or she has sufficient reserves to manage problems in the future, like unexpected home repairs or periods of unemployment. Income tells a bank whether the borrower has steady, reliable earnings that will allow him or her to continue to pay the mortgage payments and all additional

expenses. Generally, the mortgage lender wants a two-year history of steady employment, preferably with the same company. Employment of six to 12 months often is not sufficient, particularly if the borrower has no recent history of extended employment with one employer or of steady income if he or she is self-employed. Current debts, when

calculated as a total debt-to-income ratio, tell the bank how much mortgage payment the borrower can afford under the mortgage underwriting guidelines.

Credit history allows the bank to review payment history for rent, auto, installment and credit cards. Too much debt or too many late payments may result in a denial of or delay in receiving mortgage credit.

Credit scores tell the bank how the borrower ranks statistically with other borrowers as a potential risk for default. Generally, scores above 690 are "good" credit risks for banks. Scores are affected (or lowered) by loan defaults, judgments, liens, amount of revolving credit, etc.

Calculating

Calculating Housing and Debt Ratios

Housing & Debt Ratios


Mortgage ratios are calculated to determine if the borrower meets the ratio limits established by the various mortgage programs or lenders. These ratio limits vary by program and lender.

The **housing expense-to-income ratio** is often called the "front-end" ratio. The lender will measure the borrowers' monthly gross income against their housing expenses, including mortgage payments, taxes, and property insurance costs. (Mortgage lenders often call housing expenses

"PITI," for principal and interest of the mortgage payment, plus taxes and insurance.) Since most trust land is not subject to taxes, the ratio is really a "PII" ratio. That is, principal and interest on the loan plus a monthly charge to pay the homeowners insurance.

The **total debt-to-income ratio** is often called the "back-end" ratio. It is calculated by adding the current debts to the PII, then comparing that total to the gross monthly income.





“Our kids that go to college need to know that there is a place for them to come back to and have a home because there are mortgage options here to help them to stay.”



*Tammie Mirabel, Executive Director
Taos Pueblo Housing*

HOUSING OR FRONT-END RATIO CALCULATION

A	B	C
Gross monthly income	Monthly Mortgage; \$50.00 insurance (PII) for \$150,000 mortgage @ 5%/30 yrs.	Housing or front-end ratio (B divided by A)
\$2,750	\$855.00	31%

Total Debt-to-Income or Back-End Ratio Calculation

A	B	C	D
Gross monthly income	Monthly mortgage, interest, and \$50.00 insurance (PII) for \$150,000 mortgage	Monthly car payment, college tuition loans, credit cards, loans	Total debt-to-income or back-end ratio (B+C) divided by A
\$2,750	\$855.00	\$300.00	42%

The charts above provide examples of how to calculate “front-end” and “back-end” ratios.

The borrower in this example would not qualify for the HUD 184 Mortgage Loan Guarantee Program, which requires a back-end ratio under 41 percent—meaning total debts (including housing debt) must be below 41 percent of the borrower’s income. In this case, it is 42 percent.

Rather than deny this borrower outright, counselors

from a tribal mortgage program could help in several ways. First, staff might verify the debts are accurate; there are sometimes errors on credit reports. They might also work with the borrower to restructure or consolidate the debts to lower monthly payments. Another mechanism to lower monthly payments is to shop around for a lower interest rate or blend a lower interest rate product with a market rate product. In this case, an interest rate of 4 percent versus 5 percent lowers the

monthly housing payments enough to bring the ratio into the program guidelines.

Another strategy might be reducing the loan amount with a soft second mortgage or grant. How does a counselor determine how much to allocate in a soft second mortgage or grant? The difference between what a family can qualify for in a mortgage and the housing cost is called the “affordability” or “financing” gap. In the example detailed in the following chart, the bor-

rower has a financing gap of \$8,911. The counselor needs to identify a source of funds to cover that gap so that the borrower can qualify to purchase the home.

The staff would also ask the borrower whether the new mortgage payment is substantially larger than the current housing payment. If the borrower has been paying \$200 per month in rent, has no savings, and is now considering a mortgage payment of \$690, he will probably need counseling on how to adjust his budgeting and saving practices to compensate for that increased monthly housing payment.

Evaluate Mortgage Financing Products

As a part of its assistance to prospective home buyers, a one-stop mortgage center needs to evaluate suitability of mortgage financing products available for tribal communities. This evaluation cannot consist merely in reviewing product terms and conditions, but requires meetings with private mortgage lenders and with government agencies. As with any line of products,

COMPUTING THE FINANCING GAP IN AFFORDABILITY

A. Household income of typical buyer	\$36,000
B. Divided by 12 (monthly income)	\$3,000
C. Allowable installment debt (back end ratio 41%)	\$1,230
D. Less existing family installment debt (monthly)	\$500
E. Available for PII	\$730
Plus, rental income, if any	\$0
Total Available for PII	\$730
F. Less insurance (monthly)	\$30
G. Available for principal and interest (E - F)	\$700
H. Mortgage interest rate	8.00%
I. Sustainable mortgage amount	\$81,089
J. House price	\$90,000
<hr/>	
K. GAP (J - I)	\$8,911

there are mortgages that may appear attractive on the basis of loan rates and terms but which in practice are administered poorly or underwritten too strictly to be useful tools. Through meetings, agreements, and memoranda of understanding, a one-stop center can identify lenders that will work closely with a particular community as part of an effort to extend appropriate financing at affordable terms.

The one-stop center func-

tions primarily as an intermediary between lenders and tribal borrowers. It needs to understand the expectations and capacity of the lending community—both government and banks—as well as the expectations and capacity of prospective borrowers. The mortgage products available on trust or tribal land are:

- HUD Section 184 Loan Guarantee Program
- Federal Housing Administration Section 248

Mortgage Insurance Program

- Rural Housing Services Section 502 Direct Loan Program
- Veterans Administration Direct Loan Program
- Loans available through Native CDFI's such as Native Community Finance at Laguna Pueblo and Ohkay Owingeh Pueblo's CDFI (Please see Appendix D which provides a detailed review of the Native Community Finance CDFI)
- Conventional mortgage loans through a local lender
- Mortgage loans which are supported by the New Mexico Mortgage Finance Authority which are issued by local lenders. These include the following NMMFA programs: First Home Program, First Down Program and Next Home Program.

Appendix D, Mortgage Resources, presents a chart that compares the major components such as interest, fees, income limits and housing price limits of some of these products.

Sources		Uses
Bank first mortgage	\$83,000	Total development cost
NAHASDA soft second mortgage	\$13,000	Closing costs
Home Loan Bank AHP grant	\$ 5,850	
Borrower's savings	\$ 1,150	
Total Funding	\$103,000	Total Cost

Develop Appropriate Financing Structures

Another critical role for some one-stop mortgage centers is the development of financing structures that make homes more affordable. Key to this process is the ability to leverage a tribe's Indian Housing Block Grant (IHBG) funding by securing private and other government investment at rates and terms that are affordable to low-income tribal members.

There are many sources of

funding available for homeownership for low and moderate-income households. Unfortunately, little of this funding is available in amounts sufficient to complete any one project. As a result, most affordable housing development requires two or more sources of funding. It is not uncommon to see projects that have drawn resources from five or more different funding sources, including banks, government agencies, non-profit lenders, foundations and equity investors. While

developing complex financing models can be challenging and prolonged, it is necessary for tribes to begin closing the gap between the need for housing and housing production. The best of these structures creatively draw on limited grant dollars and provide decent affordable housing to more individuals and families.

The complexity of the financing is determined by the type and size of the project as well as the availability of financial resources. As most financing programs and grants vary from year to year and within specific communities, one-stop mortgage center staff needs to investigate and be aware of all available resources when considering an appropriate financing structure for a particular development project or program.

Public lender participation in the development of affordable housing can provide:

- Financing at longer terms than the conventional market
- Interest rates below market or at zero percent


- Forgivable second mortgages
- Loans with higher loan-to-value ratios than conventional market loans

Public lenders include state and local governments (cities, counties and municipalities) as well as the federal government. Many state and local programs are the direct result of allocations passed at the federal and state level to local governments and municipalities.

Affordable homeownership programs layer public funding with private financing in a number of ways. In every program, however, there is a need to bridge the afford-

ability gap between the cost of building the home and the maximum mortgage that a prospective home buyer can afford.

Affordable housing developers generally employ two mechanisms to bridge the affordability gap: grant funds and deferred or “soft second” mortgage loans. Soft second loans are typically deferred loans payable only upon sale and on a sliding scale. As such, there is no monthly loan payment required to repay them. These loans also follow the bank, or “first” mortgage, as security in the event of a default. In cases of default, the first mortgage is paid



While developing complex financing models can be challenging and prolonged, it is necessary for tribes to begin closing the gap between the need for housing and housing production.

The Black Mesa project is an excellent example of a larger scale homeownership project similar to a large subdivision type development off trust land. Generally, there are two approaches that can be taken to developing homeownership units. The first is a scattered site approach, which has been the more traditional approach taken on tribal lands. The second is a larger scale subdivision approach, which generally achieves greater economic efficiencies. Prior to planning and implementing the Black Mesa project, the Pueblo had taken the scattered site approach to development, without leveraging resources. With a scattered site approach, for example, out of an approximate annual \$500,000 block grant, the Pueblo would normally only have a maximum of \$300,000 for new housing. This amount would only cover, at most, two new homes. The following are the important lessons learned from the Black Mesa Project thus far:

- Overall, the project has been quite successful in creating new and sustainable housing for Pueblo members and in helping reintegrate members who have lived off Pueblo lands for some time. At least 110 new units have been
- completed since the project was initiated in 2007, and the project is well on its way to expand to 150 units in the next several years. The project's success can be attributed to some of its unique infrastructure elements, which were paid for off the project's balance sheet in addition to the original 100-acre site donation by the tribe. The project demonstrates the need for creatively combining many different funding and financing streams.
- Initially, it was difficult to find a Title VI lender. Wells Fargo was willing but presented onerous conditions, such as a full guarantee from the tribe and an 80% loan to value ratio.
- The tribe put together a meeting with congressional stakeholders and others to relay discontent over the lack of Title VI lending. Within two weeks of the meeting, Bank of America responded favorably, but would not consider originating Section 184 loans. Ultimately, Bank of Albuquerque took on Section 184 loans.
- The tribe had no mortgage laws, but developed new laws for the purposes of the project and others in the future.
- The total project cost to date is \$36

million. A total of 110 units have been completed, with a projected build out of 150 units. Some of these units will be multifamily units, and some will be built under a Self Help Housing Program.

- The project's master plan calls for a large plaza-like central park, which is yet to be completed. Smaller parks are also planned, which are best described as "pocket parks." These and the central plaza park are to be connected by greenways paths. This year, the tribe applied for an Indian Community Development Block Grant (ICDBG) program grant for this sub-project, but was unsuccessful. They will apply again in the coming year.
- Enterprise provided a Section 4 grant at the inception of the project to assist in the original concept planning. The tribe hired a planning company out of Santa Fe with these funds. Then, with a \$2 million American Recovery and Reinvestment Act (ARRA) grant received by the tribe in 2009, the tribe engaged in an extensive, detailed master planning process. They hired the 8A firm WH Pacific to conduct the master planning and oversee some of the original implementation of the plan.

- The tribe then received a \$400,000 Rural Housing and Economic Development (RHED) grant as a partner with the Native Lending Group (A Native CDFI) and The Enterprise Native American program in Albuquerque (NLG was a cre-

"We now have a subdivision that was built by San Felipe tribal members. It is now managed by San Felipe tribal members. The revenue goes to San Felipe pueblo and it just recirculates."

*Isaac Perez, Executive Director
San Felipe Pueblo Housing Authority*



ation of the Enterprise Native American Program). The \$400,000 was eventually rolled over into a HUD Rural Innovations Grant, after the RHED program was eliminated by Congress. Along with a \$2.5 million Title VI loan, the Rural Innovations grant helped create the first phase of the project which consisted of 28 modular homes, completed by the end of 2011.

- The tribe received a second Title VI loan, which covered the costs of 21 more units.

Project Replicability

There are several aspects of this project which limit its replicability, but demonstrate the need to cover infrastructure costs. If infrastructure costs were included in the cost of the housing, the project would not be viable.

- The tribe donated the original project site of 100 acres in 2006.
- The tribe built a new wastewater treatment facility for a new middle/elementary school next to the project site. The system was over designed with capacity both for the new school and housing on the donated site. Its main infrastructure went through the donated site.
- Similarly, new natural gas lines were brought into the Pueblo to service the new school; its infrastructure ran alongside the project site.
- Finally, a lease for a gravel pit across I-25 from the project site had to increase its electricity transmission to the gravel pit. The transmission lines needed to increase this capacity also ran along-

side the project site.

- Roads, walkways, and draining systems were paid for with a grant from the U.S. Department of Transportation.
- The wastewater system also has been connected to the project site to provide water irrigation for the proposed parks, greenway, and individual homes. Another advantage is that the cost of the potential irrigation and the hook up to the wastewater system is free of charge to the homeowners.

Project Financing

Mortgages range from \$325 to \$560 monthly. No other charges are levied at this time. Each family designs its own unit; they sit down with a Housing Authority (HA) employee and use a software package to customize their individual home. There are no requirements regarding uniformity. Although houses are individually owned, the HA provides friendly inspections every six

“Communicate and have an open door with your tribal leaders. I’m not talking about your housing board. I’m talking about your governors, your presidents, your Tribal Council. That, to me, is paramount.”

*Isaac Perez, Executive Director
San Felipe Pueblo Housing Authority*

months. Since the inception of the project, only one house has required emergency repairs.

Take out financing for the project has come from a variety of sources. These have included:

- Section 184
- Title VI
- Indian County Development Block Grant (ICDBG)
- Bureau of Indian Affairs, Housing Improvement Program (HIP)
- HUD Rural Innovations Grant (RIG)
- USDA Section 502 (only one home; HA finds the process too onerous)

Project Innovations

- For future phases of project, the tribe will submit a USDA self-help grant request for 10 new homes and is seeking a Section 538 loan for a multifamily rental project.
- The tribe has now bought back several loans (especially Section 184 loans) and provides a service fee to HA. This is an innovative approach the tribe has taken to foster economic self-sufficiency and sovereignty. The tribe is expected to generate funding from this deal.
- All potential buyers must go through a two-day counseling program, which includes training modules on: financial literacy (Marvin Ginn); Risk issues (Amerind); Tribal Social Services, including domestic violence; Maintenance (HA); etc.
- There are currently 136 qualified families on a waiting list for home ownership. The program has already attracted

home buyer members who have lived off the Pueblo, some returning from as far away as California.

- Although the project has faced a number of familiar obstacles (lack of USDA assistance, absence of Title VI lenders, etc.) it also faced a specifically unique obstacle. Running alongside the Rio Grande (The Pueblo straddles the Rio Grande), were several old and historic acequias (irrigation ditches). The Black Mesa site sat on a slope just higher in elevation from the acequias. As a consequence, there was a possibility that there would be some drainage from the project site into the acequias.
- Seventy Pueblo jobs have been created by the tribe during construction of the modular units for the project on site.

from the proceeds of the sale of the house. The second mortgage is paid only if there are any remaining proceeds. Often, affordable housing lenders use both grants and soft second mortgages in one program. The chart above illustrates a program that would meet a borrower's needs by using a combination of a first mortgage loan, a NAHASDA-funded soft second mortgage loan, grant funds secured through the Federal Home Loan Bank Affordable Housing Program (AHP), and savings from the borrower.

Several tribes have begun programs that use tribal capital to fund primary, fully amortizing loans and deferred, or "soft second" loans. An example of this is the new loan program at the Laguna Pueblo which has been capitalized by the tribe using proceeds from the Cobell settlement.

It is important to point out that in recent years there has been a significant increase in mortgage lending to the Native community in New Mexico. A recent review indicated that the

Section 184 mortgage exceeded \$100 million in volume for Native Americans in New Mexico, with over one third of those mortgages made on tribal or pueblo land.

Create and Manage Home-Buyer Financial Assistance

To facilitate homeownership efforts, a one-stop mortgage center may also develop and operate financial assistance programs such as the NAHASDA soft second mortgage program described above. These programs might include:

Down payment or closing-cost assistance programs that assist households with the actual purchase of a home

Grants or soft second mortgage programs that help families bridge the affordability gap by reducing their mortgages to affordable levels


Construction loan financing needed in situations where the tribal member wishes to build his or her own home.

Down Payment or Closing-Cost Assistance:


While mortgage financing

for homeownership provides a substantial portion of the cost of a home, home buyers still need to fund the difference between a mortgage lender's maximum loan and the cost of the home plus closing costs. In most instances, home buyers cover this gap in two phases. First, the home buyer must pay an earnest money deposit based on a percentage of the cost or value of the home at the time she or he signs a purchase contract. Second, the buyer must pay the remaining difference between the mortgage and the purchase price, as well as closing costs, at closing or settlement.

These payments can be significant, particularly for lower-income tribal members. A one-stop mortgage center can provide grant funding to help with these costs, although the one-stop center should ensure that its support fits within the guidelines of the mortgage lender. Some lenders limit the amount of grant funding or gifts and have minimum percentages that the buyer must provide from personal savings.



“As we explain the program, families are starting to understand the importance of credit, saving, and living within their means to prepare themselves for homeownership.”



*Tomasita Duran, Executive Director
Ohkay Owingeh Housing Authority*

The one-stop center might consider making down payment and closing cost assistance programs contingent on participation in home-buyer training classes, both to ensure the expenditure of limited tribal resources on qualified buyers and to encourage participation in training classes and workshops.

Soft Second Mortgage Programs: The one-stop center can also administer a soft second mortgage program or link prospective home buyers to soft second mortgage programs administered by the tribe or TDHE. As noted above, in some programs soft second loans are forgiven over time if the borrower retains the property as a principal residence and keeps first mortgage payments current. In other programs, repayment of the soft second mortgage is required when the home is sold. In communities where housing costs are escalating rapidly, soft second mortgages often contain provisions limiting resale prices in order to preserve scarce affordable housing resources.

Construction Loan Programs: These programs offer hard-to-come-by construction loans, but most often require that a “take out” or permanent financing loan be in place. Native Community Finance offers these loans, but requires that the borrower be approved for a HUD Section 184 loan. (Please see Appendix F which describes the Native Community Finance loan program).

Offer Design and Construction Contract Assistance: The one-stop center may also consider the difficulty families often have in negotiating and managing the design and construction process when building their own home. The one-stop center can provide guidance on selecting qualified contractors and construction administration services to control budget and schedule and ensure construction quality.

Most stock house plans are created with urban home buyers in mind or without concern for siting, energy costs, and weather. It is important for the one-stop center to provide design

review services through their own qualified staff or consultant architects familiar with tribal customs and, if available, design guidelines. The tribe might also want to avail itself with outside design sources, such as the Sustainable Native Community Collaborative, which has considerable experience in assisting in the design of sustainable and culturally relevant housing. (See link: <http://sustainablenativecommunities.org/>)

Support Tribal Governments Through Advocacy and Funding Private developers, lenders, and capital markets generally do not meet the housing needs of residents in low-income communities off-reservation. Housing does happen in these communities, but only with the involvement of a wide mix of government agencies, nonprofit organizations, foundations, secondary market entities, and other organizations. Nonprofit developers now constitute an industry of their own, with hundreds of experienced development organizations supported by hundreds of nonprofit community development finan-

One very bright spot in the landscape of Native American homeownership lending is the development of Native American Community Financial Institutions.



cial institutions (CDFIs) and strong advocacy organizations at the state level and on Capitol Hill.

As federal resources for Indian housing decrease, one-stop mortgage centers and tribal governments need to work together to replicate these types of partnerships in Indian Country. Homeownership on tribal or trust land is a very complex undertaking with many organizational players and a variety of legal and regulatory issues. Native American one-stop mortgage centers, with a single

focus on homeownership in Indian Country, can play the same role as nonprofit housing developers play off-reservation. They can provide a range of information on industry trends and models to policymakers on the tribal, federal, and state levels. They can also secure grant funding and financial and technical assistance resources from foundations and other philanthropic sources.

One very bright spot in the landscape of Native American homeownership lending is the development of Native

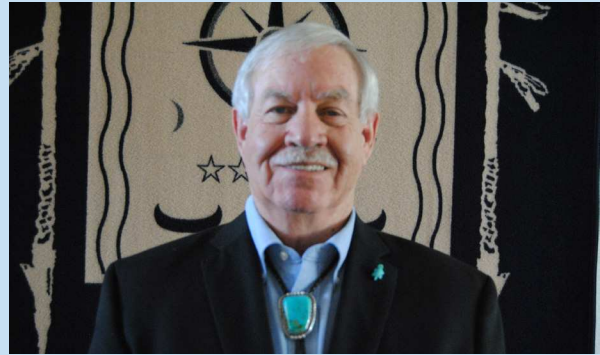
American Community Financial Institutions supported by the U.S Treasury Department's Native American CDFI Assistance Program (NACA). In fact there are four Native CDFIs in New Mexico, one of which (Native Community Finance) provides its resources to all Native communities in New Mexico.

The NACA program provides Native CDFIs with several resources, including direct funding of CDFI loan programs and technical assistance grants to emerging Native CDFIs showing

Native Community Finance (NCF) is a Community Development Financial Institution (CDFI) started in 2007 by Marvin Ginn through interest by the Pueblos of Laguna. Beginning with \$45,000 in startup funding and additional funding through technical assistance grants from the Treasury CDFI Fund, NCF has grown to over \$2.8 million in lending capital. NCF has served over 250 families and now consists of four staff. Marvin Ginn, the founder and Executive Director, is accompanied by another full-time staff member and two part-time staff members.

NCF is an independent CDFI from the Pueblos of Laguna and serves all of New Mexico's tribes and Pueblos. It is the only Native American CDFI in New Mexico that works with tribes and pueblos other than its own. While most CDFIs are focused on economic development, NCF works on housing; it contends housing is its own form of economic development for pueblos. NCF also partners with other CDFIs to provide financing to clients. For example, NCF can consolidate car loans for a family in order to get the family's home refinanced by another CDFI.

NCF offers a variety of products and services available to any Native American residing in New Mexico. Financial products include home improvement and home repair loans that clients can receive fairly quickly. These loans may support replacement of hot water heaters or other repairs. When emergencies happen, there is often no way to address the issue as very few families and individuals have savings. This product helps to fill that need. HUD Section 184 construction loans are also available. Often, traditional lenders do not want to navigate the implementation of the National Environmental Policy Act (NEPA) requirements for construction on Tribal land. Thus, NCF has been a great lending source for Native households seeking construction lending. It is worth noting, however, that NCF will only provide construction lending if the borrower has been pre-approved for a permanent HUD Section 184 loan. While NCF does not provide permanent mortgage financing, it will refinance high-interest, predatory consumer loans on mobile homes into fixed-rate loans. For any loan over \$10,000, NCF's loan committee reviews and approves the loan. NCF's lending policy is flexible enough to be reactive to opportunities as they come along; the CDFI



never says no to anything without looking at it first.

In addition to loan products for homeownership, NCF also provides mortgage assistance services for clients. NCF can assist with the following: obtaining title status reports from the Bureau of Indian Affairs (BIA), obtaining NEPA documents from BIA, developing lease agreements for Tribal Council, assisting with loan documents, as well as locating contractors, surveyors, and other home construction services.

All of NCF's products are packaged with financial education that NCF provides in-house. Utilizing the [Building Native Communities: Financial Skills for Families](http://www.FIRSTNATIONS.ORG/KNOWLEDGE-CENTER/FINANCIAL-EDUCATION/BNC) (www.FIRSTNATIONS.ORG/KNOWLEDGE-CENTER/FINANCIAL-EDUCATION/BNC) from First Nations Oweesta Corporation's curriculum, NCF offers financial education twice a month. Modules in the financial education curriculum include homebuyer's education, money management, one-on-one budgeting, and credit counseling.

NCF also provides the Building Assets through Individual Development Account (IDA) program to its clients. The IDA program is one of two services provided by

"NCF has helped many native families with their homes on the reservation. Without NCF's construction loans, these homes would not be available."

*Marvin Ginn, Executive Director
Native Community Finance*


NCF that requires income limits. The IDA has a 4:1 match up to \$1,000 for the following activities: first time homebuyer, business, and post-secondary education. NCF also couples this service with financial education. The second service offered by NCF with income limits is the Volunteer Income Tax Assistance (VITA) program. VITA is free tax assistance to people who make \$54,000 or less, have a disability, are elderly or are limited English speaking taxpayers who need assistance in preparing their own tax returns. This program has generated nearly half a million dollars in tax refunds back to the New Mexico Pueblos every year.

What does the typical process look like for an NCF homebuyer client?

When the client first contacts NCF and applies for a home construction loan, they receive a checklist of requirements for qualifying, which include participation in NCF's financial and homebuyer education program. To get started, the client provides his/her two most recent paycheck stubs and, if they have a bank account, two months of bank statements. NCF pulls the client's credit report from all three credit reporting agencies (Equifax, Experian, Trans Union). This is often the first obstacle to overcome with a client. On average, the client's initial FICO scores range from 500 to the low 600s. (See side box for more information on a FICO Score). NCF will review each credit report with their clients during a one-on-one session. After pulling

FICO SCORE

The FICO Score is a type of credit score that makes up a substantial portion of the credit report that lenders use to assess an applicant's credit risk and determine whether or not to extend the loan. The FICO score takes into account: payment history, current level of indebtedness, types of credit used, length of credit history, and new credit to determine credit risk. A FICO score will range between 300 and 850. In general, a FICO score above 650 indicates that the individual has a good credit history while scores below 620 will often make it difficult to obtain financing at a favorable rate.



a client's credit report, NCF will look at the income and debt of the client, and calculate a potential house payment that would be affordable to the client. Next, NCF creates a budget for the client and a plan for tracking with the budget, and/or improving their credit. These steps help a client raise their FICO score, typically by approximately 40 points. This process can be lengthy, and may take years to get families financially prepared to own a home. NCF staff works to keep families motivated in the program and working within their budgets. Staff maintains motivation by illustrating for clients what it will be like to have their own home. NCF finds that clients with a deep desire for homeownership are the most successful during this process. NCF has successfully set up a process of "fake" payments that are directed into savings for six months to one year in order to get clients comfortable with the future mortgage payment. This tool helps prevent "payment shock" that can come with a mortgage. Savings is a critical component of the financial education, especially for families with no savings and for whom savings is not a part of the culture.

The financial preparation process, however, is only one component. Once a family is financially prepared for homeownership, have qualified for and are approved for a mortgage there is the process of getting the land assignment and title. The client must keep on top of working with the tribal government for their lease and land assignment. Only then can the client move forward with getting their home built or purchased.



Black Mesa View Title VI converted to Section 184 home at San Felipe Pueblo, NM

a reasonable expectation of receiving certification. To be a certified Native CDFI, the lending group needs to show that at least 50% of its activities benefit Native Americans.

Understand the Home-Buying Process for Tribal Members

Even though tribal governments can rely on their lead agencies or one-stop mortgage centers to manage the day-to-day operations of a homeownership initiative, it is important for tribal leaders to educate themselves about how homeownership

works. This knowledge will help the leaders make decisions about how to design the program to fit within the tribe's culture and traditions, needs, and available resources.

Get to Know Players and Establish Partnerships

Any successful affordable homeownership program includes many players. This is true because each of the three key elements of homeownership connect to a number of systems and organizations. The three elements are: the home, the

home buyer, and the home mortgage.

The home itself requires design and construction, roads, electrical and telephone lines, and water, sewer, and safety systems.

The home buyer, particularly a lower-income, first-time home buyer, requires homebuyer and homeownership training, credit counseling, down payment assistance, and post-closing counseling.

The home mortgage requires a lender, a secondary market investor, a mort-



Crow Creek Sioux Site

gage servicing company, a guarantor, a home insurance company, and a legal structure that in Native American communities involves the tribe, the tribal courts, and the Bureau of Indian Affairs. It should be pointed out, however, that several recent positive moves for tribes have added some advantages. These include the development of Native CDFIs and provisions of the HEARTH Act which allow tribes to have BIA pre-approve their residential leasing documents so that the tribe does not have to

obtain BIA approval for each leasehold situation on a case-by-case basis. The HEARTH Act also enables tribes to more efficiently engage in larger-scale homeownership developments. (Please see Appendix G which describes the HEARTH Act in more detail).

In addition, affordable homeownership requires grants and low-interest loans from foundations and a number of state and federal agencies, depending on the particular project.

A one-stop mortgage center may help to coordinate the activities of all of the players who participate in a homeownership program. In doing so effectively, the one-stop mortgage center, along with the tribal leaders, must understand the motivations and requirements of each party involved.

The home buyer is a tribal member who wants to buy or build a home. The tribal member's family and any other individuals who will live in the home should also be a part of the home-buying and

education process.

The tribe can facilitate homeownership by developing a one-stop mortgage center or a homeownership initiative and by dedicating resources, such as NAHASDA funding and tribal employees. Tribes have a variety of interests in homeownership, including decent housing, retention of tribal members on tribal lands, employment, and economic growth. The tribe might also want to become a Native CDFI as several others have in New Mexico.

The Tribally Designated Housing Entity (TDHE), often an Indian Housing Authority, is charged by the tribe with providing housing and housing services to tribal members consistent with the traditions and cultural priorities of the tribe. The TDHE's interests include leveraging NAHASDA funds with bank and other private financing in order to build as much housing as possible.

Lenders provide the mortgage loans to prospective home buyers. Banks and mortgage companies earn

money on mortgage loans. Their primary motivation is profit. They earn money from loan processing fees and interest on mortgages they "hold" or keep until fully repaid by the borrowers. They also earn money from loan processing fees and other transactional revenue when they sell the mortgages to secondary market investors, such as Fannie Mae or Freddie Mac. Banks are also motivated to make mortgage loans in underserved communities by the requirements of the Community Reinvestment Act (CRA). As a homeownership program is developed, the tribe and the one-stop mortgage center are best served by identifying one or two lenders who will commit to their program. However, a recent innovation at the San Felipe Pueblo has seen the tribe itself actually purchase back a number of the mortgages made at the Black Mesa project. By doing this, the tribe is keeping the profits provided by these mortgages with the tribe. And since the tribe contracts with the TDHE to service the loans, the fees generated by the servicing are also kept by the tribe,

through its TDHE. Servicing is discussed more fully in the next paragraph. Lenders can include Native CDFIs willing to lend to home buyers beyond their own tribes such as Native Community Finance.

Mortgage loan servicing companies collect the payments on the mortgages from the home buyers. These companies make a fee for servicing loans. Most are for-profit organizations, although some public agencies, like the New Mexico Mortgage Finance Authority, and non-profit organizations can also act as a servicing company for mortgage loans. The U.S. Department of Agriculture services the Rural Housing Service Direct loans.

Secondary market mortgage investors buy mortgage loans from banks and mortgage companies provided the loans meet their underwriting guidelines. These quasi-public and governmental agencies make money by bundling mortgages as securities and selling them to other investors. Examples in New Mexico include: Fannie Mae, Fred-

die Mac, Ginnie Mae, and the New Mexico Mortgage Finance Authority. Secondary market entities are also profit-driven, and they must answer to their shareholders if they fail to deliver profits as expected.

Mortgage brokers provide assistance to home buyers by locating mortgages at the best possible interest rate and terms and by packaging mortgage applications. In return for their services, mortgage brokers earn fees paid by the home buyer, or lender, or both. Mortgage brokers are generally not suited to the delivery of special mortgage products as they are being developed.

Federal and state agencies provide direct mortgage loans, grants and loan guarantees to support homeownership in Native American communities. Federal government agencies are compelled to meet congressional and administration mandates and goals. Also, the federal government has a trust responsibility to help protect the welfare of tribal communities. The federal and state agencies with programs in Indian

Country include:
U.S. Department of Housing and Urban Development (HUD), through its Office of Native American Programs (ONAP) and other programs, works to develop affordable housing for rent, ownership, and special needs, in low and moderate-income communities.

U.S. Department of Agriculture (USDA), through its Rural Housing and Rural Utilities Service programs, works to create affordable housing, both rental and homeownership, in rural communities.

U.S. Department of Veterans Affairs (VA) provides assistance, primarily through direct and mortgage guarantee programs, to veteran military personnel seeking homes.

U.S. Department of the Interior – Bureau of Indian Affairs (BIA) approves leases that establish a leasehold mortgage interest in the land. The BIA also provides title status reports (TSR) required by lenders. The BIA has a federal trust responsibility to protect Indian lands.

U.S. Department of Health and Human Services – Indian Health Services (IHS) provides water and sewer design and infrastructure development oversight for housing development projects in Native American communities as part of its mission to provide federal health services to Native Americans.

New Mexico Mortgage Finance Authority (NMMFA) operates a wide variety of single family and multi-family affordable housing programs to support the development of affordable homeownership and rental housing. NMMFA manages several assistance programs, including the First Home Program, a down payment assistance program called First Home Down and the Next Home Program for buyers who have previously owned a home. NMMFA also has the BUILD IT! Loan Guaranty Program, created in 1994 to encourage other lenders to provide interim financing when they might not otherwise do, including trust land. The program offers NMMFA guarantees of up to 50% of the risk of loss in

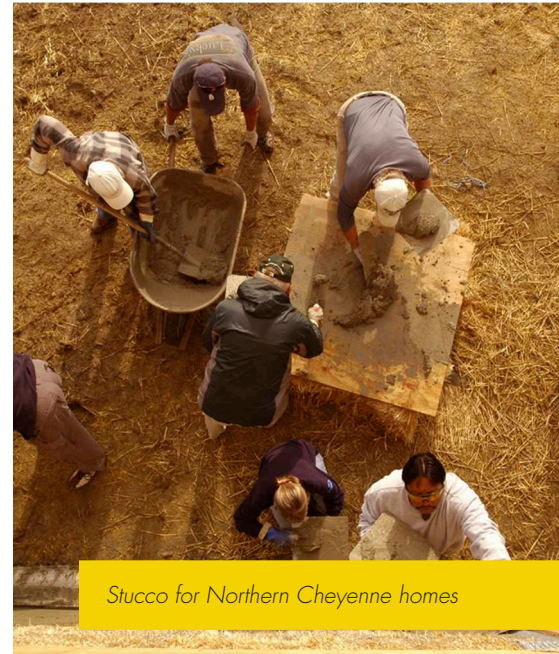
the underlying loan. Nonprofit community development organizations develop affordable homeownership housing and provide home-buyer counseling services, among other community development efforts. They also work to serve poor and underserved communities in a number of different ways depending on their specific mission. Examples in New Mexico of nonprofit housing organizations include The Housing Trust, formerly known as Santa Fe Community Housing Trust; HOMEWISE, formerly Neighborhood Housing Services of Santa Fe; Native Partnership for Housing, Inc.; and YES Housing.

Nonprofit community development intermediaries are national and regional nonprofit organizations that support the work of local and regional community development organizations through a combination of technical assistance, grants, and low-interest loans. Examples in New Mexico include Neighborhood Reinvestment Corporation and Enterprise Community Partners (formerly Enterprise

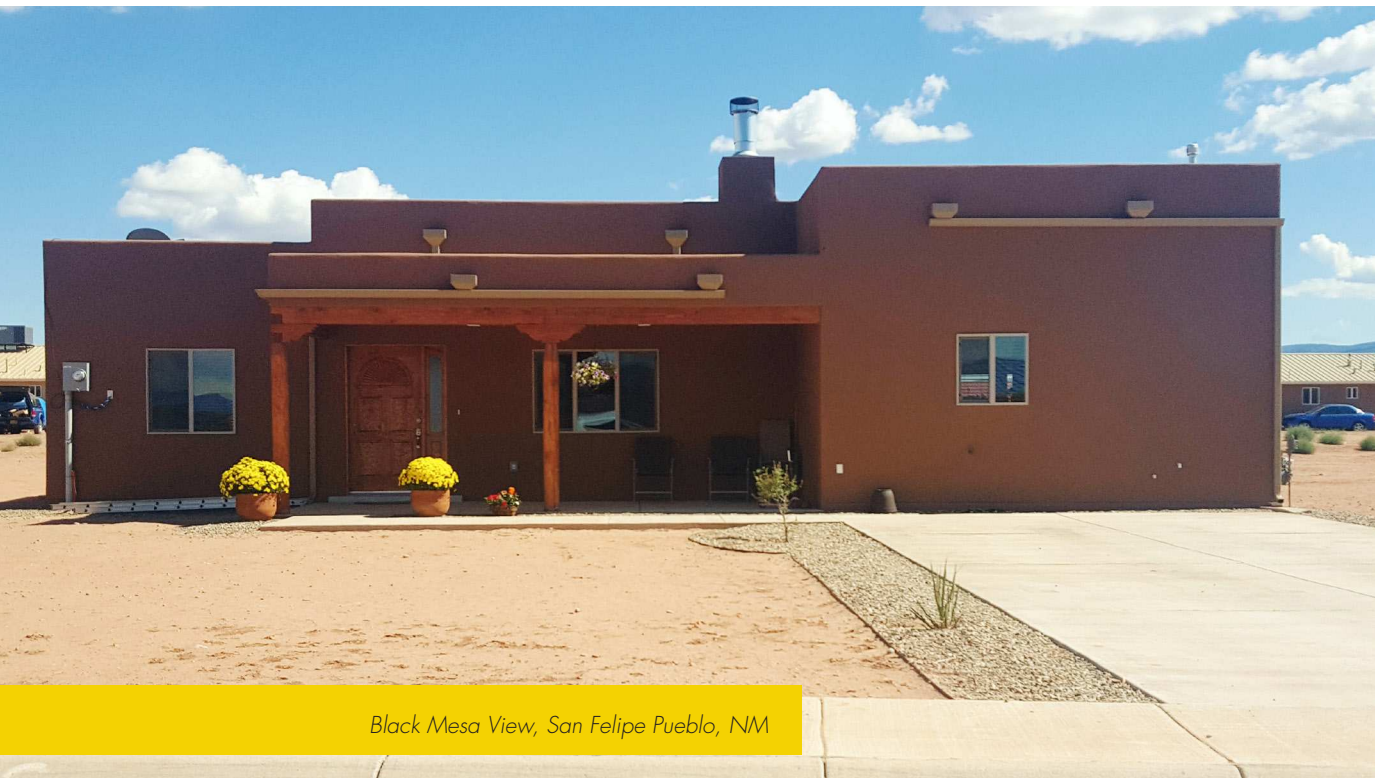
Foundation). There are several Native CDFIs in New Mexico as indicated previously. Native Community Finance, based at the Laguna Pueblo, can and does provide construction loans to members of all New Mexico pueblos and tribes. Ohkay Owingeh and Isleta Pueblos have their own CDFIs making loans to their members.

Federal Home Loan Bank of Dallas – Affordable Housing Program (AHP) provides grants to support affordable homeownership development. The Federal Home Loan Bank of Dallas is one of 11 regional Federal Home Loan Banks. These entities are privately capitalized, government-sponsored enterprises created by Congress in 1932 to expand and strengthen the country’s home financing system. To use the AHP, a tribe or pueblo must find a FHLB member bank to sponsor a funding application. Active Banks have included Bank of Albuquerque, Wells Fargo, and Century Bank amongst others.

Foundations offer grants and below-market financ-



ing to facilitate the creation of affordable housing. Foundations also provide operating support to nonprofit community development organizations, such as a nonprofit one-stop mortgage center. There are thousands of foundations in the country, many of which support community development efforts. Foundations are required to spend a certain percentage of their



Black Mesa View, San Felipe Pueblo, NM

interest and investment income annually on philanthropic giving. Examples in New Mexico include the McCune Foundation, the Kellogg Foundation, and the Annie E. Casey Foundation.

Learn the Steps in the Mortgage Lending Process

The mortgage lending process is complicated and depends on the processes of others: the tribal council, home buyer, bank, and BIA. The players' timelines are not always synchronized, and interest rate lock-ins, construction schedules and

other time-sensitive factors can be jeopardized. The following is an outline process for obtaining a mortgage on a reservation, based on the process used by the New Mexico Southern Pueblos BIA.

Step One: Pre-qualify the borrower.

Step Two: The Application for Lease and Residential Lease Forms may be completed and signed by applicants at the same time, then submitted to the Governor's Office for Tribal Council approval.

Step Three: After tribal approval, the forms, along with the original Tribal Resolutions for either Section 184 or Section 248 (or other mortgage) are then submitted to the Realty Office at the Southern Pueblos Agency for preparation of the following items:

- Survey plot and legal description – with a minimum of .75-acre area required for the lease, unless the lease site has access to sewer lines.
- Environmental document-

tation – either an Environmental Assessment or a Categorical Exclusion Check-list will be prepared – after consultation with the U.S. Fish and Wildlife Service, for threatened or endangered species that may be in the project area. The soil scientist at Southern Pueblos Agency is also consulted if it appears the proposed home site may be in a “water table” area.

- A Cultural Resources Survey and a Clearance or Compliance Survey are required. A compliance memorandum prepared by a BIA archaeologist will be issued on project areas that have previous ground disturbance.

Step Four: With help from the one-stop center, the applicant should contact the bank or mortgage company for the loan process, as well as contact the builder or contractor. In addition, the applicant should:

- Obtain pre-purchase counseling from one-stop center (initial qualification, etc.).
- Follow the home-buyer

- work plan (savings, etc.).
- Contact banks to compare mortgage interest rates, fees, etc. and certification to originate preferred loan product.
- Initiate application with bank (application, credit reports, etc.).
- Compare, select and negotiate with a builder, and execute a contract for design and construction.
- Obtain an appraisal.

Step Five: After steps two through four have been completed, the residential lease can be approved by the superintendent of the Southern Pueblos Agency. Please note that this individual step can be avoided if the tribe obtains pre-certification for its leasehold documents from BIA under the provisions of the HEARTH Act (Please see Appendix G, a more detailed description of the HEARTH Act and the pre-certification process).

Step Six: The residential lease, with attached survey map, legal description, the rider for the mortgage (Section 184/248 mortgage or other mortgage), and the

tribal council resolution, are then submitted to the BIA Office of Land Titles and Records for the BIA recording process and preparation for the title status report.

Step Seven: After the Title Status Report process is completed, the documents listed below are provided to the applicant, the pueblo, and the bank or mortgage company. Originals are filed with the Southern Pueblos Agency.

- Residential lease, survey map, legal description, rider, and tribal council resolutions
- Environmental documentation
- Cultural resources survey/clearance or compliance
- Title status report

Implement Legal Framework

Once the tribal leaders and the one-stop mortgage center understand the players and the mortgage process, it is time to consult with legal counsel to design a legal framework that meets the needs of the tribal community. Mortgage lending, like other loan transactions,

relies on a legal foundation that protects the interests of both lender and borrower. These legal protections include ways for lenders to secure their loans and ways for lenders to foreclose on mortgages in the event of defaults.

Legal protections are included in mortgage and loan documents, but they are implemented by the courts and enforced by officers of the court. Lenders will not provide loans to individual tribal members or TDHEs without protections included in loan documents.

Tribes can enact balanced, appropriate legal infrastructures through tribal resolutions and ordinances. The elements of these infrastructures must be legally enforceable and must be sufficient to protect the interests of borrower, lender and any guarantor, including HUD or some other federal agency. The steps to building this legal framework are outlined below:

Review Models for Standard Legal Documents

A variety of model legal documents are available

to tribal governments from federal agencies and secondary market providers. Some are also available from other tribal homeownership initiatives. Tribes should consult with technical assistance providers, federal agencies, banks and other tribes to obtain model documents that most closely match their own communities and prospective lending programs. Tribal legal counsel should review any legal documents, as should banking and other lending partners.


As part of the One-Stop Mortgage Center Initiative in Indian Country, HUD, USDA, VA and BIA released a set of model documents for tribes seeking to become eligible to use federal direct, insured, or guaranteed mortgage programs. These agencies adopted a memorandum of understanding that provides a streamlined review and approval process provided that a tribe adopts the Model Tribal Lending Procedures for Lien Priority, Eviction, and Foreclosure and Leasing and the Model Lease.

If a tribe adopts these documents and executes an agreement with one of the federal agencies, that federal agency will share that agreement and approval with each of the other agencies, making the tribe eligible to participate in all federal programs. Copies of these model documents are posted on the Internet at www.fanniemae.com/content/fact_sheet/hud-model-tribal-lending-code.pdf

The New Mexico Tribal Homeownership Coalition believes all tribes, especially those just implementing mortgage codes, should use the new model documents as their starting point. Each mortgage program has strengths and weaknesses; the community will be best served if all or most of the programs are available.

As with every aspect of a homeownership program, partnerships are critical to creating and adopting effective legal documents. It makes no sense to create documents that satisfy tribal leaders but not lenders, or vice versa. A legal framework exists to balance conflicting interests. Both

Partnerships are critical to creating and adopting effective legal documents. it makes no sense to create documents that satisfy tribal leaders but not lenders, or vice versa.



the lender and/or guarantor on the one hand and the tribe as the landowner and representative of the home buyer on the other should participate in creating the legal infrastructure and in drafting and approving guidelines and documents. The most critical and difficult legal matters, particularly for tribal communities, entail the adoption of uniform leases and foreclosure and eviction procedures.

The land lease document:
For the purposes of homeownership, a land lease is a legal document establishing

a prospective borrower's claim to the land on which his or her house will be built. Because the borrower offers this claim as security when he or she approaches the lender for a mortgage loan, it is essential that the claim, or lease, be acceptable to the bank. If the lease document is not satisfactory to the bank, the bank will not provide a mortgage loan. As a consequence, it is important to adopt a form of lease that is acceptable to as many lenders and loan programs as possible so that a home buyer has many financing options once he or

she has secured a leasehold interest in the land.

The lease allows the tribal member to occupy the land for a set period of time and to improve it with a home or other structures. The lease also establishes conditions for occupancy; in the case of a homeownership initiative, this includes payment of a mortgage.

Indian housing authorities have used leases as part of Mutual Help programs for many years. The long-term leases used for homeownership are similar in

	LAND ASSIGNMENT	LAND LEASE
Ownership Status	A land assignment offers many of the features of ownership	Sufficient control to obtain a mortgage, but not ownership
Length of Control	Usually understood as permanent	Has a specified term – usually 50 years, although lease can be as long as 75 years under provisions of the HEARTH Act. Lease expires at the end of the term and may become a land assignment again
Inheritance/ Assignability	Can be passed down to heirs	
Use Rights	Not a “legal right of use” enforceable by law, unless the tribal law provides for this	Has “legal right of use.” Lease specifies both rights (can build a house, for example) and defaults (can be evicted for non-payment of mortgage).
Mortgages	Cannot be used as security for a loan	Has “legal right of use.” Lease specifies both rights (can build a house, for example) and defaults (can be evicted for non-payment of mortgage).
Tribal customs and standards	Remain in place, including rights of banishment	Subject to the particular lease. Traditional rights of use must be specified in the lease and any relevant codes.
Surveys	Standard surveys are not required	BIA approval is required for lease document issued by tribe, unless tribe has received pre-certification under the HEARTH Act.
BIA approval	BIA approval is not required for a traditional land assignment	BIA approval is required for lease document issued by tribe, unless tribe has received pre-certification under the HEARTH Act.

that the tribe (or the U.S. government in trust for the tribe) continues to own the land. While a lender, under certain circumstances, may control the use of the land for the period of the lease, the tribe will never lose the land. However, an individual tribal member may, in fact, lose rights to the land. Failure to pay the mortgage will result in the tribal member's losing the lease and the right to stay on the land, which may have been in the family for generations.

As a consequence, a tribal member's decision to convert a traditional assignment into a lease in order to obtain a mortgage loan is a very serious step. Tribal leaders should design a leasing process that clearly defines those differences for tribal members. They should also be aware that the leasing process need not replace the way land has traditionally been assigned – the systems can be integrated. The table above illustrates some significant differences between a traditional land assignment and a land lease.

The land lease document is

a critical item. In the past, a tribe had to receive BIA approval for the form of the lease on each transaction. The HEARTH Act now allows a tribe to obtain pre-certification for its leasing documents from the BIA, thus avoiding seeking BIA approval for each separate transaction. Although the outline on the previous page adequately sets out the minimum characteristics of a land lease, please see Appendix G for more details on the BIA requirements for land lease pre-certifications.

Foreclosure and Eviction Procedures: The foreclosure procedure itself is discussed in some detail in the sidebar in Chapter 3. A foreclosure allows the lender or guarantor to take legal possession of mortgaged property in the event of non-payment of a mortgage. This process is not unlike a car dealer repossessing a car for non-payment of the car loan. In the case of homes on trust land, the lender or guarantor would transfer the leasehold interest in the land to a new homeowner through the foreclosure process. The new homeowner would either repay the existing mort-

gage loan if it is transferred before the foreclosure or agree to pay a new mortgage on terms similar to the original homeowner's.

The mortgage process rests on the ability of a lender to complete this process according to tribal codes and tribal legal documents in a quick and—just as importantly—predictable way. A pattern or history of unexpected delays in foreclosure proceedings in tribal courts would deter many lenders.

An inability to enforce court rulings would also act as a powerful deterrent to continued lending. As a result, the legal framework for homeownership must develop eviction procedures that allow for the physical removal of a household after a mortgage has been foreclosed. As with the foreclosure, eviction needs to be an expedited and predictable process. Defaulted homeowners have little reason to care for their former homes; leaving homes in their possession for any length of time has consequences for the physical condition of the property.

Negotiate Eligibility with Federal Agencies and Investors

After reviewing model lease documents and determining how to address leasing and foreclosure issues, tribal leaders or their representatives should negotiate with federal agencies and investors about using language that addresses tribal concerns.

In most instances, affordable housing entails the participation of many different funding entities, including a number of government agencies. On Native American lands, the involvement of the Bureau of Indian Affairs introduces another layer of complexity to affordable housing. Tribes considering homeownership initiatives must ensure that their projects or programs conform to the guidelines of all relevant federal programs. If tribes are considering initiatives that fall outside of particular program guidelines, it is critical to negotiate variances early in the process before spending time and scarce resources on ventures that will not secure government approval.

Investors and banks that process thousands of mortgage applications off-reservation may hesitate to provide mortgage financing for projects on trust or tribal land. As a result, tribes should negotiate with individual lenders and secondary market organizations like Fannie Mae at the outset of a particular program or initiative. If the involvement of one lender or one mortgage product, such as a lease/purchase mortgage, is central to a homeownership initiative, a tribe or tribal one-stop mortgage center should consider developing a memorandum of understanding or some other document confirming or committing a lender's participation.

Revise and Adopt Legal Documents by Tribal Resolution

Just as a tribe or tribal one-stop mortgage center will want to secure written commitments or memoranda of understanding from prospective investors and government agencies, so investors and agencies will want tribes to adopt legal documents and standards. Tribal resolutions address-

ing all aspects of mortgage lending, including defaults and remedies, offer banks and government guarantors a secure framework for predictable investment in Native American communities.

Tribes should be prepared to adopt standard forms of land leases, mortgages, loan agreements, and mortgage assignments. In addition, tribes will have to adopt tribal statutes stipulating foreclosure and eviction processes, among others.

Some tribes have chosen to adopt more comprehensive housing codes that govern the licensing of builders and contractors and regulate construction-related professions such as appraisers, inspectors and title insurance providers. They may also adopt other ordinances governing dog control or residential-use restrictions. Under the HEARTH Act, the tribe must approve the form of the leasehold document before obtaining pre-certification approval from the BIA.



Santo Domingo Heritage Walk Workshop

Consider Impact on Sovereignty and Culture

As tribal leaders design their homeownership programs, they should consider the impact that mortgage lending will have on the tribe's sovereignty and how it will affect cultural traditions. It is important to remember that tribal leaders can accommodate many conflicting concerns by carefully balancing issues upfront and addressing them appropriately in their legal codes and processes. So while the model documents provide a template,

each tribe must consider and propose additional language that addresses their sovereignty and cultural and social issues.

HEARTH Act Impact on Tribal Sovereignty

As previously mentioned, the HEARTH Act is Federal legislation that now allows tribes to obtain pre-certification for their leasehold documents and avoid having to obtain BIA approval for these documents on a transaction-by-transaction basis. Limiting the need for BIA approval on each and every transaction bolsters

sovereignty, but also enhances the tribes' homeownership development efficiency. There are a number of advantages to receiving prior certification for leasing regulations. These include: speeding up the process for approval of homeownership documents such as mortgages, leases and promissory notes; speeding up and regularizing the recording of homeownership documents; allowing the tribal housing developer more efficiently plan the build-out and take-out of homes in larger scale projects; by speeding up the approval

process, it allows potential home buyers to “lock” in a rate with a takeout lender.

Property Disposition During Foreclosure

There are a number of ways for tribes to manage the foreclosure process to ensure disposition of the property in a manner consistent with overall tribal policies or preferences. Two standard safeguards are tribal rights of first refusal and default funds.

Tribal right of first refusal: A right of first refusal allows tribes the first option to purchase a defaulted house from the bank or guarantor. A right of first refusal is included in the loan documents and requires the bank or guarantor to offer the property at a set price (usually the amount of the outstanding debt on the house plus interest and fees) before a foreclosure auction. In order to be in a position to exercise this right of first refusal to purchase a defaulted home, the tribe may wish to create a reserve fund with which to make the purchase. This right is generally provided in the documents to both the

tribe and to the IHA.

Tribal delinquency fund: A tribal delinquency fund provides emergency funding for households in arrears on mortgage payments and in danger of foreclosure. The delinquency fund pays the lender directly while the one-stop mortgage center works with the household either to bring the mortgage current or to transfer the home to a family member or third-party purchaser. A delinquency fund is an earlier intervention than a right of first refusal; however, it carries the risk that homeowners will come to rely on this assistance. A tribe should consider whether the delinquency fund would require the family to repay the funds.


Integrating Traditional Practices

Homeownership initiatives are not all the same. Among other differences, they address different income levels, include different design elements, accommodate different ownership structures, and rely on different funding mechanisms. One-stop mortgage centers can and, in many instances,


should integrate traditional practices into homeownership programs. This integration can strengthen both homeownership and community development efforts by weaving homeownership into the traditional fabric of the community with respect to land assignments, design, and layout.

Traditional land assignments: If a tribal community allocates its land to tribal members through traditional land assignments, this process should be taken into consideration when developing the legal leasing process to support mortgage lending. For example, if land assignments have been made by Cacique—traditional Pueblo leaders—the tribe may want to build this step into the legal leasing process.

Traditional housing developments: As sovereign nations, tribes have the authority to shape most aspects of their homeownership programs. For example, if a tribal community prefers not to have certain types of housing (e.g. manufactured housing) on its reservations, tribal leaders should include this



**“It took us
two years of
presenting to
council, educating
them about tax
credits so that they
could understand
and become
comfortable, and
allow us to apply.”**



*Tomasita Duran, Executive Director
Ohkay Owingeh Housing Authority*

restriction into its housing codes.

Other issues tribal leaders may want to address in their codes may include requiring certain traditional elements to be used in housing design or restricting housing construction in certain sacred areas. In order for these restrictions to be followed, however, tribal leaders should also consider developing an enforcement program along with the housing code.

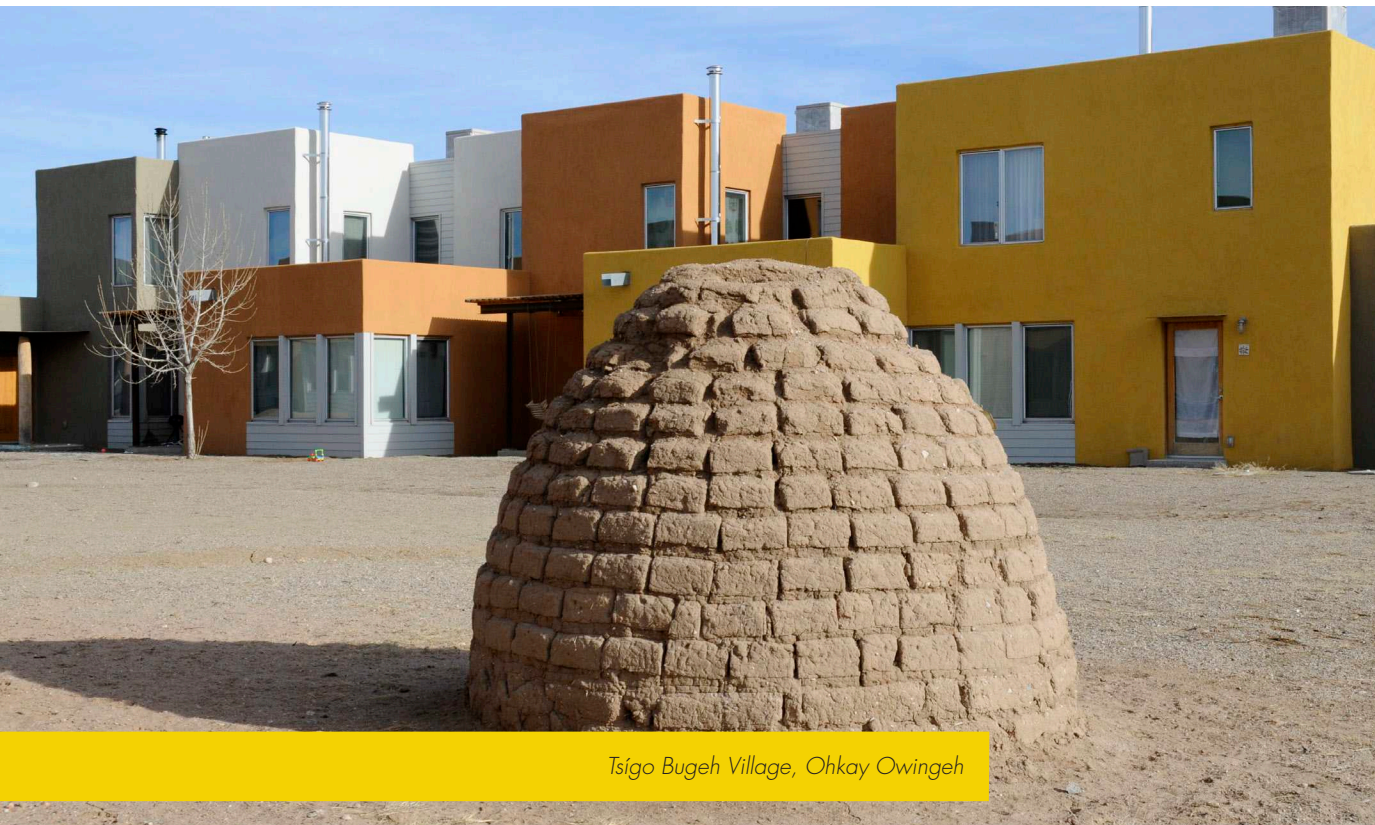
Preservation of Historic Plazas: Many tribal members may choose to use mortgage financing to renovate or expand homes on historic plazas. These undertakings present several challenges. First, if tribal and traditional leaders have preferences as to how this development on the plaza should occur, these should be reflected in

the housing code. Second, the one-stop mortgage center may need to help members navigate tribal or state historic preservation requirements, which can be extremely onerous. Finally, in order to obtain mortgage financing, the tribal member must have a legal leasehold interest in the land on which the home is located. The tribe may need to amend its leasing program to accommodate this situation. In some communities, the tribe may choose to design a renovation program for tribal members living on the plaza. This type of program may not require individual mortgages or leasehold assignments. Several pueblos have already begun significant plaza renovation projects. These have included Ohkay Owingeh, Santo Domingo, and San Felipe.

Promoting Scattered Sites or Subdivisions

Tribes and one-stop mortgage centers need to decide at the beginning of their homeownership efforts what kind of physical development they wish to promote. Almost all new housing relies on an infrastructure of roads, utilities and other systems, although there are some new homes that are “off the grid” and rely on solar power or other individual systems. As discussed earlier in this guide, the cost of infrastructure development is very high, and developing scattered site housing requires an extended infrastructure. The Black Mesa subdivision on the San Felipe Pueblo is an excellent example of a subdivision approach to homeownership development.

In addition to the cost, tribes and one-stop mort-



Tsigo Bugeh Village, Ohkay Owingeh

gation centers need to weigh cultural and other considerations in thinking about the type of homeownership that is most appropriate for their communities. Do tribal members value proximity to the pueblo center? Do they want to live at a distance from neighbors? Do tribal members want detached or row homes? Is there a resale market within the tribal community for a distant house if the original owner defaults on a mortgage? The previous chart provides a brief overview of some of

these considerations.

Facilitate Homeownership Development

Tribes and one-stop mortgage centers can make it easier to build homes on a reservation in a number of key ways, including:

- Land use planning to assess the best sites for new homes
- Allocation of tribal funds to fill gaps in homeownership financing
- Development of housing

codes to ensure quality construction and design

- Evaluation of homeownership programs both to measure program performance and to demonstrate success to current or prospective funders

As with other aspects of homeownership programs, this assistance is both necessary and interconnected. No matter how affordable it may be, nobody wants to own a poorly built or ugly home. No matter how well-designed a house may

The Santo Domingo Pueblo is a tribal community made up of approximately 5,000 tribal members. The pueblo is located between Albuquerque and Santa Fe, New Mexico, along major historic and contemporary roads of commerce. It was a center for trading activity in the early 1920s. The center of the old Pueblo Village is on the National Register of Historic Places and is still occupied by well over 3,600 tribal members who actively use its plazas, historic church, and sacred kiva spaces.

The Santo Domingo Tribal Housing Authority (SDTHA) is a nonprofit organization that plans, designs, develops, and manages affordable housing for the community of Santo Domingo. The SDTHA was established in 1995 as a Tribally Designated Housing Entity (TDHE) to provide affordable, safe, culturally relevant, sustainable and healthy housing to the Tribe's population. Since the housing authority's inception, the organization has been able to devise systematic ways to be cost-effective and sustainable in its approach to development and rehabilitation. SDTHA currently employs seven full-time staff members. Led by a six-member board of commissioners, SDTHA's staff has utilized its diversified affordable housing

experience to overcome significant barriers to development, including issues related to trust land, high poverty rates, extremely low incomes, limited developable land, and limited funding to rehabilitate and/or construct 189 units of affordable housing on the reservation. Through a community-based integrated approach, SDTHA provides high-quality housing, property management, and resident services to Kewa tribal members.

SDTHA is in the process of developing an Affordable Sustainable Healthy Housing Initiative (ASHHI) that captures the Tribe's vision to provide cost-effective, culturally appropriate, sustainable healthy homes and neighborhoods for tribal members throughout the Santo Domingo Pueblo. Elements that are informing and shaping the ASHHI include:

- Health Impact Assessment to determine how healthy affordable housing, planning, and infrastructure can positively impact overall community health through the built and physical environments;
- Community outreach to reservation areas both with the village core and

- beyond to determine community needs and an overall sustainable vision for future housing development;
- Planning and design activities of the planned housing developments, and review of the Santo Domingo Comprehensive Master Plan to determine its applicability to other areas within the reservation;
 - Preparation and delivery of educational workshops both to the community along with the SDTHA regarding best practices and case studies of culturally appropriate and healthy tribal housing and sustainable planning, including the implementation of Enterprise Green Communities as an overall adopted sustainable housing guideline;
 - Meeting and coordinating with tribal government, tribal departments and enterprises that are involved in planning, design and construction, such as the housing authority, tribal utilities, planning consultants, etc.;
 - Preparation and delivery of workshops regarding internal policies that support sustainable planning and construction; and
 - Preparing recommendations for developing further internal capacity to imple-



“A home is where the heart is, and the heart is the beat of our strong traditional community.”

*Greta Armijo, Executive Director
Santo Domingo Tribal Housing Authority*

ment, oversee, and enforce sustainable planning and design that aligns with community goals and vision determined through the outreach process, including further developing of the Community Master Plan for the pueblo.

The Santo Domingo Pueblo is striving to develop as a connected community. The ASHHI and the comprehensive master plan are stitching together the different housing developments and finding ways to create a better connected community that gives members better access to tribal resources, programming and opportunities such as the rail runner. This is the vision of the comprehensive plan: thinking about the future and

creating a community that is connected to one another. Specifically, it is making sure that village development, their “Community Housing Project,” is close to the community center to give people direct access to resources and services such as WIC, community health representatives, and the senior center. Tribal members will have better access to visit their elders, the Kewa family wellness center, and the gym.


As the SDTHA lays the ground work for a healthier pueblo, it is looking at the impact

of health on its tribal members at three different scales:

1. The Unit. How does design and sustainability contribute to the overall health of the family? What is the indoor air quality of the homes? How are issues like asthma impacted by the home?
2. The Community. How is overall community health impacted by a connected walkable community that invites active transportation and makes community members less reliant on a car?
3. The Region. How does access to the Rail

ENTERPRISE GREEN COMMUNITIES CRITERIA

Introduced in 2004, the [Enterprise Green Communities Criteria](http://www.enterprisecommunity.com/solutions-and-innovation/enterprise-green-communities/criteria) (Criteria) (www.enterprisecommunity.com/solutions-and-innovation/enterprise-green-communities/criteria) emerged as the first national standard for affordable housing developers to extend the economic, health, and environmental benefits of green building without compromising affordability. The Criteria is improving the health and well-being of low-income people by transforming the quality of affordable housing in America. By aligning affordable housing investment strategies with environmentally-responsive building practices, Enterprise is leading the national effort to ensure that people living in affordable housing are healthier, spend less money on utilities, and have more opportunities through their connections to transportation, quality food, and health care services. The building stock is also improved: Certified Enterprise Green Communities properties cost less to operate and maintain, use fewer natural resources, generate less waste, and contain fewer toxic materials, contributing to a healthier environment. For over 10 years the Criteria has captured the collective experience of affordable housing developers and leading housing and green building organizations and experts. This collaborative approach provides a clear, cost-effective framework for affordable housing and a commitment to a thorough integrative design process, optimized location and site features, water conservation, energy efficiency, and property operations practices. The Criteria includes thoughtful integration of resilient design features and an emphasis on resident health. The Criteria are suitable for all development types, including new construction, substantial rehab, and moderate rehab in both multifamily and single-family projects. For a developer for whom sustainability is brand new, the Criteria provides a clear roadmap for achieving holistic project performance. For a developer that aspires to the highest performance possible, the optional Criteria provide a launching pad for these groups to explore the cutting edge. Further information, tool, and resourced can be found online.



Runner commuter rail line that connects the pueblo to the larger urban areas of Santa Fe and Albuquerque and access to education, jobs, healthier foods, etc. impact the long-term health of the community?

The comprehensive master plan will include a 60-unit affordable housing homeownership development that will tentatively break ground in the spring of 2018. m SDTHA is creating three housing prototypes: 2-bedroom, 3-bedroom, and 4-bedroom. Each prototype incorporates a set of design standards that are sustainable, culturally appropriate, and find scales of economy. The prototypes recognize the need for a mix of bedroom types because there is a range of need in the community and different family

sizes to accommodate. SDTHA is developing planning guidelines and best practices to identify site strategies that will create a cohesive, walkable, and connected community. The homes may achieve Enterprise Green Communities standards. Some of the green building features include passive solar, high energy efficiency appliances and systems.

For too long, Native Americans have not been consulted regarding their specific housing needs and vision for their community. The SDTHA is engaging its community in the design process through community charrettes, ensuring the design of the homes is sustainable from a cultural perspective. For example, the homes will maximize public and communal spaces within the unit such as kitchens, living rooms, and dining rooms for large family gatherings. These areas will also have a direct relationship to open spaces. The charrette process elicits these and other nuances that will enable the housing prototype design to reflect the needs of the community.

The SDTHA has a commitment to pre-development planning and design. This commitment plays a role in ensuring future prosperity for the Tribe and their vision of sustainable healthy culturally appropriate housing. Their belief is that understanding where the design and development come into a house and thus, translating the development's focus to be about place has a lasting positive impact on the Tribe.

COMMUNITY CHARRETTES

A community charrette starts with a meeting to share design ideas and thinking, letting residents be the architects of their community. However, this is just the beginning of a process. The developer and architect will continue to meet with the community to share the ideas that have developed based on input from the community. Designers get further feedback, redraw, and represent back to the community. This is a loop that continues until they get it right; it is a dialogue that allows for the end product to be what the community wants. Further tools and resources for [holding a predevelopment design charrette](http://www.enterprisecommunity.com/solutions-and-innovation/a-predevelopment-design-charrette) (www.enterprisecommunity.com/solutions-and-innovation/a-predevelopment-design-charrette) are available online.



Concerns	Scattered Sites	Subdivisions
Infrastructure costs	Costlier because of distances and individual site costs	Less expensive due to shared expenses and economies of scale
Environmental and archeological costs	Individual environmental and archeological clearances are required	Blanket environmental and archeological clearances are possible
Construction costs	Construction and archeological costs may be higher	Less expensive due to economies of scale
Contractor and construction financing	Choice of contractors limited by job scope and size, financing may be more expensive	Greater choice of contractors, financing may be cheaper, and fees can be shared
Proximity to pueblo center	Ability to stay close to Pueblo Center	May need to be remote from Pueblo Center
Proximity to neighbors	Allows building at a distance from other homes	May increase possibility of sub-leases and re-sales


be, nobody wants to live in areas that are undesirable for one reason or another. Tribes and one-stop mortgage centers need to address each of these aspects of homeownership development in order to create an effective and sustainable program.

Conduct Strategic Land Use Planning

Tribes and one-stop mortgage centers can conduct land use planning assessments to determine the highest and best use for particular areas of their pueblos or reservations, including areas that best suit homeownership development. Land use planning allows tribes to identify existing

and needed infrastructure, to site community facilities and to focus efforts in particular geographic locations, such as plaza rehabilitation. Land use planning also permits tribes to prioritize development efforts by first developing a comprehensive vision of a community's future and then creating timelines for the implementation of that vision. Because

Because strategic land use planning describes a vision of the future, it should involve tribal leaders, tribal members, engineers, and community planners, among others.



strategic land use planning describes a vision of the future, it should involve tribal leaders, tribal members, engineers, and community planners, among others. (See Appendix H for discussion of Master Planning at Santo Domingo Pueblo).

NAHASDA requires that Indian Housing Plans include a map delineating the geographic boundaries of the tribal legal area of operation. Tribes can use additional thematic maps as analytic tools to describe

a variety of current and projected conditions in a graphic format. Tribes can secure assistance in mapping efforts from community development intermediaries such as Enterprise Community Partners, universities, and other sources.

Thematic maps include the following, although maps can be designed to show other features or uses:

- Land use maps delineate existing residential and commercial uses as

well as their densities. A land use map should also locate vacant lots, abandoned buildings, open spaces and parking. The map should display tribally owned land and non-tribally owned property, among other features.

- Housing conditions maps delineate the community's housing density and conditions, including houses in need of rehabilitation or demolition.
- Community Facilities

Maps delineate location of schools, churches, retail centers, day care, medical and other facilities.

- Master, or land use, planning maps allow tribes to make informed decisions about zoning, design guidelines and infrastructure development. As such, they are critical tools to the thoughtful development of communities.

The Black Mesa project in the San Felipe Pueblo was master planned with a great deal of detail, which has enabled the project to proceed so successfully.

Allocate Tribal Funds to Mortgage Program

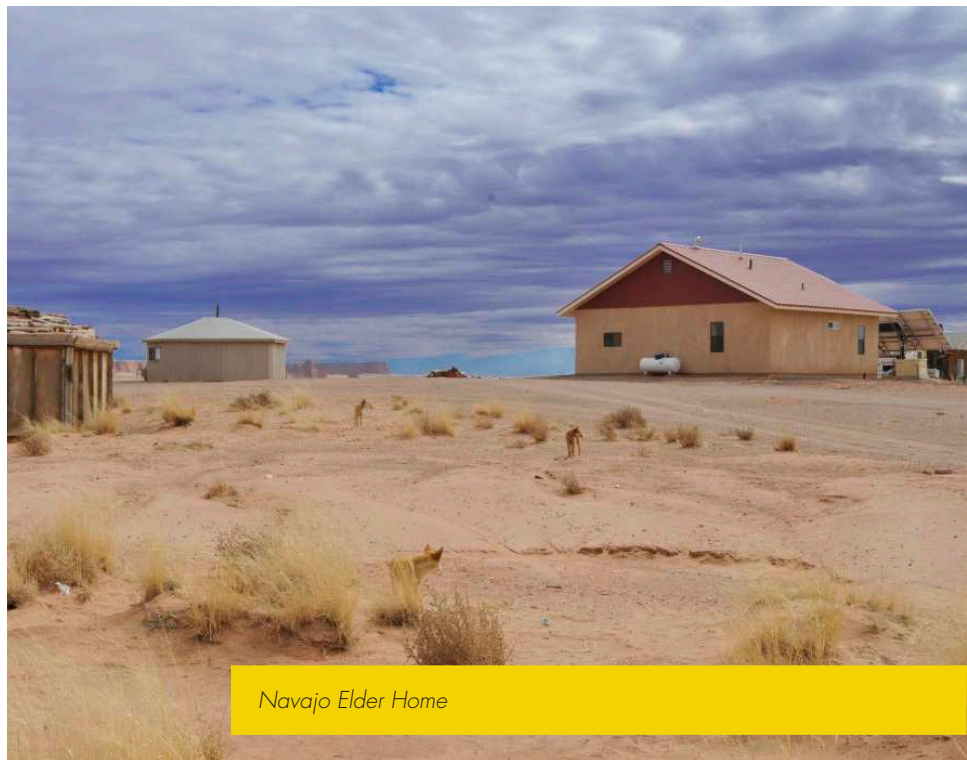
Tribes provide critical support to homeownership and housing on tribal lands through land assignments and minimal-cost leases; however, if they are available, some tribes may choose to allocate tribal funds to support housing programs for tribal members. Housing efforts in Native American communities with tribal financial support have a much greater chance of success.

How best to allocate scarce tribal resources varies from community to community and varies over time and according to available government subsidies and private investment. Tribes and one-stop mortgage centers should decide on the appropriate allocation of funds after careful analysis and planning. Possible financial support includes: soft second mortgage programs, infrastructure development for housing development, guarantees for construction and development loans,

closing and other home-buyer assistance, project development capital, and ongoing support for the operating costs of one-stop mortgage centers.

Enact Housing Code

In addition to enacting foreclosure and eviction codes, tribal leaders may want to consider other laws addressing housing and housing construction such as licensing of contractors, housing inspections, building permits, quality of life ordinances, design



Navajo Elder Home

guidelines and enforcement mechanisms.

Again, every financing source has its rules, including for design: be proactive. It is in the interest of the tribe to preserve cultural architecture. Tribal members also benefit from living in homes that are energy efficient. Working with tribal architects, builders, planners and energy experts can produce a simple set of design guidelines for new housing developments.

Enacting Environmental Review Codes

Under most existing Federal funding programs and BIA regulations, tribes are required to follow National Environmental Policy Act (NEPA) review procedures. However, if a tribe chooses to obtain pre-certification under the HEARTH Act, the tribe may substitute its own environmental code, or if it does not have one, adopt a new code as long as the code meets certain minimum requirements, including the right of tribal members to review and appeal decisions.

Using the Federal Low Income Housing Tax Credit for Subdivision Development

The LIHTC has been primarily used for the development of rental projects and a number of such projects have been developed by tribes and pueblos in New Mexico. In many cases, using the tax credit can enable a tribe to cover as much as 80% of total development costs through an equity investment generated by sale of the tax credits. However, a project using tax credits can be designed in such a way as to be converted into homeownership units once the 15-year holding period for rental occupancy has passed. In essence, these projects can be designed as lease-to-purchase subdivisions. (Please see Appendix H which details a number of the issues that must be considered in designing such a project).

Evaluate Homeownership Program

A periodic, systematic assessment of the outcomes of a homeownership program will help tribal leadership and housing professionals determine next steps and

identify gaps in funding or technical assistance provision. As a consequence, it is important to establish measurable families to be counseled, and the dollar amounts to be leveraged.

For example, a program goal may be to help tribal members who were part of the original survey attain homeownership. Evidence of success could be measured by how many potential home buyers received education and how many tribal members obtained affordable mortgage financing.

5

CONCLUSION

Santo Domingo Pueblo, New Mexico

A HOUSING VISION FOR THE FUTURE

In the current political and economic climate, available public resources for affordable housing are not sufficient to meet the need. This is true of homeownership as well. While federal and tribal resource dollars may be able to build some housing, the demand for affordable homeownership will never be met without the infusion of private financing into tribal communities in the form of mortgage loans.

Mortgages do carry a risk that traditional ways of funding housing development in tribal communities do not. A mortgage is a debt; it carries an obligation to repay. If the obligation is not satisfied, the lender has the right to exercise certain remedies to recover its money, including foreclosure. This risk can be lessened for individual homeowners through careful pre-purchase training and post-acquisition counseling and assistance. This guide describes ways that tribes and tribal leaders can control the risk to their communities from foreclosure, unplanned development, and other consequences of private investment.

By the careful planning, design and implementation of mortgage finance systems, tribal leaders can introduce the benefits of mortgage financing to tribal

communities. As a result, tribes can:

- Access private financial resources from banks, mortgage companies, and other conventional lenders
- Leverage tribal resources and federal grants to expand +homeownership opportunities
- Build individual and tribal wealth through the appreciation of home values
- Control choices over type and location of homes and decisions about inheritance
- Create homes for higher-income tribal members who have been forced to live off the reservation because of federal income restrictions or lack of housing
- Take advantage of the HEARTH Act to foster stronger sovereignty by creating leasing regulations and documents that

do not require constant BIA oversight

Many barriers have historically prevented access to affordable mortgage financing for tribal communities and tribal members, including tribal and trust land status, low household incomes, and irregular employment and credit histories. Concerns about collateral and treatment in tribal courts have deterred some investors, and the absence of an infrastructure for homeownership housing has made costs prohibitive or resale prospects too remote.

Tribal leaders can develop homeownership programs that surmount impediments to mortgage investment by the creation of a one-stop mortgage center to lead the homeownership effort. One-stop mortgage centers can:

- Assess tribal housing needs, resources and strategies
- Design and deliver homeownership training and home-buyer counseling programs
- Evaluate existing mortgage products

- Leverage philanthropic and public grants and other resources
- Structure and administer home-buyer financial assistance programs
- Advise tribal leaders on appropriate housing and homeownership strategies

One-stop mortgage centers can manage the development and financing of homeownership systems in ways that preserve and protect tribal values and histories, while substantially increasing housing opportunities for tribal members and building the wealth and autonomy of the community as a whole.

Homeownership is a goal that many low and moderate-income tribal members have already achieved. This guide points the way home for many more.

UNDERSTANDING THE HEARTH ACT

What is the HEARTH Act?

Legislation that permits tribes to enter into residential, commercial and agricultural leases without having to obtain prior approval from the Bureau of Indian Affairs (BIA) for each new lease. The new law enables a tribe to avoid the often lengthy process by which it had to have each new lease in the above three areas to be approved by the BIA prior to execution. Specifically:

- The Act gives tribes the authority to enter into agricultural and commercial leases of tribal trust land for a term of 25 years, plus two renewal periods of 25 years each;
- residential leases can be as long as 75 years;

The BIA must pre approve leases developed by a tribe, if the tribe creates leasing regulations that are in sync with regulations set out in the Department of the Interior's leasing regulations and if the leases are subject to a tribal environmental review process that meets minimum requirements stated in the Act.

Key Components in a Residential Lease

Under the HEARTH Act, there are several key components that must be included in a residential leasehold. For examples of previously approved leases and a BIA

approved check list, as well as approved leasing regulations to date go to: www.indianaffairs.gov/WhoWeAre/BIA/OTS/HEARTH/index.htm

In addition to the items in the BIA check list above, there is an environmental review process that must be developed:

- The environmental process must include:
- an evaluation of any significant effects to the environment
- a process to inform the public by:
 - giving reasonable opportunity to comment on any significant environmental impacts
 - providing responses to relevant and substantive public comments on any impacts
- Many tribes do not have their own environmental review process, but at least for residential lease regulations, the BIA has issued a Policy Memo on setting up an approved environmental review process that should be adhered to by the tribe. See www.indianaffairs.gov/cs/groups/public/documents/text/idc1-026788.pdf

How it works

As a result of certification the tribe will have pre-approved lease regulations and documents which would not be required to be reviewed by BIA prior to each execu-

tion. However, the tribe would be responsible for recording lease documents with the BIA Land Title and Recording Office (LTRO) and the legal encumbrance must appear on Trust Assets and Accounting Management System (TAAMS) Title Status Reports. Also, the BIA must approve or disapprove tribal regulations in a pre-certification request within 120 days after submission from the tribe.

History Behind the HEARTH Act

For a long period of time, the delays at BIA in approving individual leases has caused a great deal of frustration in tribal communities. Specifically, as it relates to larger scale home ownership development projects, delays have made it very difficult for tribes to plan and implement build outs and sales of new housing to individual members. Moreover, the denial of giving responsibility to tribes to design and implement their own leasing regulations is seen as a negative impact on sovereignty. As a consequence, mounting pressure on Congress and the Executive Branch resulted in passage of the HEARTH Act. And on July 30, 2012, President Barack Obama signed into law the Helping Expedite and Advance Responsible Tribal Home Ownership Act of 2012 (the HEARTH Act).

Why the HEARTH Act for Tribal Residential Development?

There are a number of advantages to receiving prior certification for leasing regulations. These include:

- Speeding up the process for approval of home ownership documents such

as mortgages, leases and promissory notes;

- speeding up and regularizing the recording of home ownership documents;
- allowing the tribal housing developer more efficiently plan out the build out and take out of homes in larger scale projects; and
- by speeding up the approval process, it allows potential home buyers to “lock” in a rate with a takeout lender.

Steps for Certification and Implementation

Under the HEARTH Act, there are five general steps leading to Secretarial approval of tribal leasing regulations.

- Tribal government drafts, approves, and submits its leasing regulations to the BIA’s Central Office
- BIA and Solicitor’s office review proposed regulations in accordance with HEARTH Act criteria.
- BIA discusses review with the tribe’s designated representative. Regulations are returned to tribe for any modifications.
- Final regulations are submitted to offices of the Assistant Secretary-Indian Affairs (AS-IA).
- Regulations are reviewed by the AS-IA’s offices and, if appropriate, The Secretary of Interior issues final approval.

Note!/: Tribal regulations may not allow tribes to make major substantive changes to the regulations without BIA approval. Minor technical amendments may be made without BIA approval.

The above information was taken from several Department of Interior-BIA web sites.

OTHER INFRASTRUCTURE RESOURCES

Category	Description	More Information
USDA Water/ Wastewater Predevelopment Planning Grants	Assists low-income communities with initial planning and development of an application for USDA Rural Development Water and Waste Disposal direct loan/grant and loan guarantee programs.	www.rd.usda.gov/programs-services/water-waste-disposal-predevelopment-planning-grants
USDA Water/ Wastewater TA and Training Grants	This program helps qualified, private non-profits (including non-profits on tribal lands) provide technical assistance and training to (a) identify and evaluate solutions to water and waste problems; (b) assist applicants in preparing applications for water and waste disposal loans/grants; and (c) assist associations in improving operation and maintenance of existing water and waste facilities in eligible rural areas.	www.rd.usda.gov/programs-services/water-waste-disposal-technical-assistance-training-grants
USDA Community Facilities Loans and Grants	This program provides affordable funding to develop essential community facilities in rural areas. An essential community facility is defined as a facility that provides an essential service to the local community for the orderly development of the community in a primarily rural area, and does not include private, commercial or business undertakings.	www.rd.usda.gov/programs-services/community-facilities-direct-loan-grant-program

Category	Description	More Information
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HHS/Indian Health Service Grants

Provides technical and financial assistance to American Indian tribes and Alaska Native villages for cooperative development and construction of safe water, wastewater, solid waste systems and related support facilities.

www.ihs.gov/dsfc

Department of Energy Technical Assistance Grants

The U.S. Department of Energy (DOE) Office of Indian Energy provides federally recognized Indian tribes, including Alaska Native villages, tribal energy resource development organizations, and other organized tribal groups and communities, with technical assistance to advance tribal energy projects.

www.energy.gov/indianenergy/technical-assistance

Bureau of Indian Affairs Loan Guaranty, Insurance and Interest Subsidy Program

The purpose of the program is to encourage eligible borrowers to develop viable Indian businesses through conventional lender financing. The direct function of the program is to help lenders reduce excessive risks on loans they make. That function in turn helps borrowers secure conventional financing that might otherwise be unavailable.

www.bia.gov/WhoWeAre/AS-IA/IEED/LoanProgram/index.htm

Department of Energy

DOE has previously funded a number of innovative energy efficiency projects on tribal lands and most likely will announce funding opportunities in the future.

www.energy.gov/indianenergy/past-funding-opportunities

New Mexico Indian Affairs Department Tribal Infrastructure Fund

This fund is capitalized with 5% of the estimated senior severance tax bonding capacity. Open to all Federally recognized tribes and Pueblos. Can fund basic infrastructure needs.

www.iad.state.nm.us/tribalinfrastucturefund.html

FEDERAL LOW INCOME HOUSING TAX CREDIT FOR LEASE-TO-PURCHASE HOMEOWNERSHIP OPPORTUNITIES

An innovative approach to developing homeownership units utilizes the Federal Low Income Housing Tax Credit (LIHTC) program. Using this model, rental housing units are developed and turned into homeownership units for the original tenants or for new homebuyers. The LIHTC program, administered in New Mexico by the New Mexico Mortgage Finance Authority (NMMFA), awards a developer a certain amount of federal tax credits. The developer, in turn, can then sell these credits to investors in return for a cash equity investment in the project.

Since the investment is an equity investment, the developer does not hold any debt related to the equity investment and does not have to cover debt related costs in the project's operating budget. This enables the project to keep rents at a significantly affordable level.

The regulations pertaining to the tax credit allow rental units in the project to be converted into homeownership units under certain circumstances after the first 15 years of the project's existence. Key among these

circumstances, the tenant must have the desire to obtain homeownership, and the sale price must be an affordable price to the buyer while also meeting the tax credit income restrictions applicable to the unit.

The tax credit can often fetch as much as 80% of the total development cost of a project (less the cost of land), making this an excellent way to cover most of the costs of rental housing and potentially the cost of homeownership units. A number of tribes and pueblos in New Mexico have completed tax credit projects and might consider conversion to homeownership at the end of 15-years.

The following is a summary of steps and considerations that a tribe or pueblo should take in establishing a homeownership conversion program for an existing tax credit project. For a new project in development, the conversion program will need to be finalized before the tax credit program closing. However many of the steps are the same, including purchase price setting, homeownership training, and capital needs assessment and repairs.

Existing Project**When**

Survey potential tenants for homeownership	As soon as possible
Tribal decision to incorporate homeownership conversion	As soon as possible
Assemble conversion team which should consist of the following: <ul style="list-style-type: none"> • An attorney to ensure that the land use regulatory agreements allow for conversions • An accountant to review financials and advise on exit taxes • A needs assessor and cost estimator to determine a budget for capital improvement needs and cost • A homeownership counselor to create and implement a counseling program 	As soon as possible
Create conversion plan and obtain NMMFA approval	Year 13
Create and implement a homeownership counseling program for potential tenant buyers. Program should consist of: financial literacy; home maintenance; and homeownership responsibilities	Year 13
Assess and create budget for capital improvements	Year 14
Negotiate with limited partner for their exit	Year 15
Set purchase price for units. Purchase price for a unit cannot be the lesser of (a) the sum of principal amount of outstanding indebtedness of the building less any indebtedness incurred on the building within 5 years of sale to tenant and all taxes related to the sale or (b) the amount that is affordable to a household meeting the LIHTC income restrictions applicable to the unit. Principal, interest, taxes, and insurance (PITI) plus utility payment for the buyer must exceed the greater of: (a) the current LIHTC rent or (b) 30% of the buyer's household income. If a tenant cannot afford the sale price or does not want to buy, they cannot be made to move unless they are in violation of their lease agreement. Units may not be kept vacant in anticipation of finding a qualified tenant/buyer.	Year 15
Identify sources of first mortgage financing and assistance for buyers	Year 15
Complete all capital improvements and repairs	Year 16
Sales to tenants and accompanying release of LURA by NMMFA	Year 16 and beyond

NEW MEXICO MORTGAGE FINANCE AUTHORITY TRIBAL ELIGIBLE FUNDING PROGRAMS

The New Mexico Mortgage Finance Authority operates several funding programs tribal housing entities are eligible to participate in within the state of New Mexico. Some of these programs can be used for various development and lending programs associated with homeownership projects. These programs are included in the following list:

Ventana Fund assists critical needs for an increased supply of early stage financing for affordable housing construction and rehabilitation projects through low-interest rate loans. This 501(c)(3) is dedicated to increasing the number of decent affordable homes for New Mexico's lower-income residents. The Ventana Fund targets low-income communities, economically distressed communities and market niches that are underserved by traditional financial institutions including Tribal communities.

Primero Investment Fund Loan Program finances the development of affordable rental or special needs residential facilities considered "high risk" by traditional lenders. Its purpose is to leverage other public and private funds and expand housing development of nonprofit, tribal and public agency housing providers. Tribal agencies are eligible to apply for the Primero loan and must provide evidence of businesslike organizational operation, as well as experience in housing development

or partnership with an experienced development team.

New Mexico Housing Trust Fund is intended to provide flexible funding for affordable housing initiatives for persons or households of low- or moderate-income. Eligible tribal borrowers include tribal governments, tribal housing agencies, and other entities as outlined in the Notice of Funding Availability (NOFA). Eligible projects include costs of infrastructure, construction, acquisition and rehabilitation necessary to support affordable single family or rental housing as outlined by NOFA. Applicants can request to apply for the Low Income Housing Tax Credit 4% and 9% simultaneously.

HOME Investment Partnership Program is designed to provide gap financing for a variety of affordable and special needs housing projects throughout New Mexico. HOME funds are typically the last dollars committed to a project and are used in combination with other housing resources such as MFA's Low Income Housing Tax Credit (LIHTC).

Tax Exempt **Bond Financing** for Affordable Rental Housing. MFA will provide bond financing for multifamily housing development through the following mechanisms: Private Activity Bond Volume Cap multifamily housing project allocations from

the State Board of Finance for new tax exempt bond issues; Refunding outstanding bond issues; or issuing new 501(c)(3) bonds.

Low Income Housing Tax Credit

(LIHTC) provides federal income tax credits to individuals or organizations. Tax credits provide a dollar-for-dollar reduction in the developer's tax liability for a 10-year period. This award is awarded annually through a competitive application process according to New Mexico's Qualified Allocation Plan.

New Mexico Affordable Housing

Tax Credit is for up to 50 percent of the value of donations for affordable housing approved by the MFA or for donations made directly to the NM Affordable Housing Charitable Trust. . This program encourages investment by providing donors to qualified housing development with credit on their state taxes. Donations must be made to an affordable housing development that has been approved by the MFA.

LOAN PRODUCTS COMPARISON

Item	HUD Section 184	Veterans NADL	FHA Section 248
Maximum Loan Amount	1.5 x FHA limit. For FHA limit in selected location	Set on annually; For 2016 same as FHFA limits. Recently set as high as \$417,000	FHA limit and up to 96.5% financing
Term	30 years or less	30 years	30 years or less
Interest Rate	Market	Currently 3.75 fixed-30 years	Market
Fees	1.5% Guarantee which can be financed	1.25%; Can be financed	None by FHA; Limits on Lender
Credit History	Lender determination	Steady	Lender determination
Employment	Lender determination	Steady	Lender determination
Ratios	41%	41%	31/43 on new construction
Eligible Property	All locations in most states, limited counties in some states, and 12 states entirely ineligible	Only on trust land	Indian land, including allotted land
Income & Borrower Eligibility	None; Member of NAHASDA recipient tribe; Tribes and TDHE's	None. Borrower must have a Certificate of Eligibility establishing his/her service record	None. Member of a federally-recognized tribe
Manufactured Housing	Adequately secured to pad	Yes, but with engineered permanent foundation	New or existing with engineered foundation

Item	USDA Section 502-Direct	USDA Section 502-Guarantee
Maximum Loan Amount	100% of Appraised Value. Cannot Exceed Area Loan Limit	100% of Appraised Value plus Upfront Fee
Term	33 to 38 years; 30 for Manufactured Housing	30-year maximum.
Interest Rate	Fixed interest rate at closing. Rate can change monthly. As of June, 2016, 3%. Payment assistance can reduce actual interest rate to as low as 1%	Current Fannie Mae 90-day delivery (actual/actual) for 30-year fixed rate conventional loans, plus 100 basis points, rounded up to the nearest one-quarter of one percent
Fees	None	Upfront Guarantee Fee: 2.75% Annual Guarantee Fee: 0.5%
Credit History	No minimum credit score required by Rural Development.	Lender determination
Employment	No minimum history requirement.	Lender determination
Ratios	29/41 to 33/41	29/41
Eligible Property	Generally rural area with population less than 35,000. Must be decent, safe and sanitary-necessary repairs can be financed up to appraised value. Must be modest	Generally rural area with population less than 35,000. Must be decent, safe and sanitary-necessary repairs can be financed up to appraised value. Must meet HUD Handbook 4000.1
Income & Borrower Eligibility	Currently be without adequate housing; Able to afford the mortgage payments, taxes, and insurance, typically within 22 to 26 percent of their incomes; Unable to obtain a mortgage loan elsewhere on similar terms. 80% of area median income	Up to 115% for guarantee loan
Manufactured Housing	Must be new and purchased from an approved dealer/contractor	Must be brand new (less than 12 months old and never occupied). Must include the site

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Item	HUD Section 184	Veterans NADL	FHA Section 248
Type of Product	100% loan guarantee	Direct Loan	Guaranteed Loan
Down payment	1.25% of loans under \$50,000; 2.25% of loans over \$50,000	None	As little as 3.5%, which can be a gift
Loan uses	New Construction, Existing, Rehab, Refinance	New Construction, Existing, Rehab, Refinance	New Construction, Existing, Rehab, Refinance including cash outs
Closing Costs	Lender determination but can be financed	Cap set by VA, but can be financed	Lender determination but can be financed
Down payment or Closing Cost Assistance	Allowed	Allowed	Allowed
Homebuyer Education	Not required, but highly recommended	Not required, but highly recommended	Not required, but highly recommended
Mortgage Insurance	Loans with a loan to value of 78% or greater will be subject to an annual .15% mortgage insurance premium	Not required	.5% per year
Appraisal	Required, Appraiser to be approved by lender	Required, Appraiser to be approved by VA	Required, Appraiser to be approved by lender
Misc.	Only Primary Residence; Lender must be approved by HUD. Tribe must have entered into MOU with HUD, VA or USDA on mortgage policy and procedures	Only Primary Residence. Property must be on Trust Land; Tribe must have entered into MOU with HUD, VA or USDA on mortgage policy and procedures	Only Primary Residence. Property must be on Trust Land; Tribe must have entered into MOU with HUD, VA or USDA on mortgage policy and procedures
More Info	www.portal.hud.gov/hudportal/documents/huddoc?id=184pg_ch_2_rev_4_8_11.pdf	www.benefits.va.gov/homeloans/nadl.asp	www.portal.hud.gov/hudportal/HUD?src=/hudprograms/imil

Item	USDA Section 502-Direct	USDA Section 502-Guarantee
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Type of Product	Direct loan	90% Loan Guarantee
Down payment	None	At least 10%
Loan uses	New Construction, rehab, but not refinance, unless it is a construction take out loan	New Construction, rehab, but not refinance, unless it is a construction take out loan
Closing Costs	Title Insurance, can be financed	Reasonable and customary costs charged in lenders area. Can be financed
Down payment or Closing Cost Assistance	Allowed	Allowed
Homebuyer Education	Not required, but highly recommended	Not required, but highly recommended
Mortgage Insurance	None	Not required
Appraisal	Required, Appraiser to be approved by USDA	Required, Appraiser to be approved by lender
Misc.	Only Primary Residence. If property is on Trust Land; Tribe must have entered into MOU with HUD, VA or USDA on mortgage policy and procedures	Only Primary Residence. If property is on Trust Land; Tribe must have entered into MOU with HUD, VA or USDA on mortgage policy and procedures
More Info	www.rd.usda.gov/programs-services/single-family-housing-direct-home-loans	www.rd.usda.gov/programs-services/single-family-housing-guaranteed-loan-program

SAMPLE HOUSING AND BUSINESS SURVEY

Conducting Community Surveys

This community survey is designed to give tribal members the opportunity to voice their opinion of conditions in their community and neighborhoods and to identify community development issues that need to be addressed. In addition, the survey aims to identify the demographic characteristics of the community, and gauge the effectiveness of existing community development programs.

It is important to note that this sample survey is offered only as a starting point. The most successful surveys include residents in the design and implementation. The final survey instrument should be created collaboratively with community residents. Best results are also achieved when the survey is carried out by a team of residents who have received some training on how to interview residents.

It is crucial to remember that the survey is only means to an end. Consequently, before you begin, carefully consider the information you will be collecting and how the results will be used to help define a direction for community development practitioners.

Survey Process

The survey should be conducted in person. The interviewer can note the residents' responses on the survey, or the resident can personally complete the survey in the pres-

ence of the interviewer. A survey manager would verify the interviewers' work (number of surveys), assign case numbers (to preserve the respondents' anonymity), and enter the survey responses into a database.

The database can be a simple Excel spreadsheet with case number (family), question number, and, for each question, a response number (1, 2, etc.). The response numbers are a simple way to identify how many families responded to a particular question. For example, in Question 1, a family indicates they have lived in this community for five to 10 years – and the interview circles "3." The number of "3" responses to Question 1 are then tallied at the end of the survey. Once aggregated, or added up, the survey data can give the tribe a picture of the needs that the residents identify in their community. Programs, resources and efforts can then be more efficiently used to address these issues.

Introductory Narrative

We are doing a survey for the .
The information is part of an effort to create a comprehensive plan for the tribe. Your answers are strictly confidential. The information will not be reported in any way that allows you, your house or your apartment to be individually identified.

(circle one)	
Male	1
Female	2

Your Community

1. How long have you lived in this community?	
Less than one year	1
1-4 years	2
5-10 years	3
11-20 years	4
21 years or more	5
Not sure or no response	9

2. What are the three things you like most about living in this community?

(If they lived in the same place for five or more years:)

3. Five years ago, did you live	
In some other community	1
Somewhere else in:	2
Outside of:	3
Not sure or no response	9

4. Compared with five years ago, how would you rate your community as a place to live? Is it...

A better place to live today?	1
A worse place to live today?	2
About the same?	3
Not sure or no response	9

Retail Services

5. Would you say the majority of the stores in your community serve . . .

(Read List)

Tribal residents		
Yes	No	Not applicable
1	2	9

People from other communities		
Yes	No	Not applicable
1	2	9

6. Compared to five years ago, do the stores serve the community . . .

A better place to live today?	1
A worse place to live today?	2
The same	3
Did not live here 5 years ago	5
Not sure or no response	9

7. What type of retail would you like to see added to your community?

Grocery	1
Pharmacy	2
Automotive service (includes gas stations)	3
Clothing	4
Convenience	5
Household goods and appliances	6
Not sure	7
Other	

Community Involvement

8. Have you ever wanted to change something or address a problem in your community?

No	1
Yes	2
Not sure or no response	9

9. Have you ever contacted anyone about changing something or addressing a problem?

No (Go to Question 11)	1
Yes	2
Not sure or no response	9

10. Who have you contacted?

Tribal Council	1
Indian Housing Authority	2
Other (specify)	3
Not sure or no response	9

11. Why have you not contacted anyone?

Lack of time	1
Wouldn't make a difference	2
Not interested or feel it's not important	3
Tried it, but frustrated with lack of results	4
Didn't know who to contact	5
Language or cultural barriers	6
Not sure or no response	9

12. Do you feel you know enough about the development plans for your community?

No	1
Yes	2
Not sure or no response	9

13. In what ways would you like to get information about development plans in your community? Would you like to get information through:

Newspaper articles

Yes	No	Not applicable
1	2	9

Community meetings

Yes	No	Not applicable
1	2	9

Meetings at tribal offices

Yes	No	Not applicable
1	2	9

Neighborhood newsletters

Yes	No	Not applicable
1	2	9

Mail or flyers

Yes	No	Not applicable
1	2	9

Word of mouth

Yes	No	Not applicable
1	2	9

Other

Yes	No	Not applicable
1	2	9

14. If a group were organized, would you be interested in working with that group to advise on physical and community improvements?

Yes, I would be interested	1
No, not interested	2
Not sure or no response	9

(If yes)
How often do you think you would attend meetings of this group?

Weekly	1
Monthly	2
Four times per year	3
Less than four times per year	4
Not sure or no response	9

Housing

15. Do you think there is a need for more affordable housing opportunities for residents in your neighborhood?

Yes	1
No (Skip to Question 18)	2
Not sure or no response	9

16. In your neighborhood, which is needed more – rental housing or homeownership opportunities?

Rental housing	1
Homeownership	2
Both are equally needed	3

17. If you could afford to buy a house anywhere you like, would you buy . . .

In your community (Skip to Question 21)	1
Some other area on your reservation	2
Outside of the reservation altogether	3
Not sure or no response (Skip to Question 21)	9

18. Why would you buy outside of the tribal community?

(Do NOT read list.)

Affordability	1
Location	2
Availability	3
Safety or crime	4
Job or employment	4
Other, not sure or no response	9

19. Are you aware of any programs that help you buy a home of your own?

Yes	1
No	2
Not sure or no response	9

20. How much does your household pay in rent or mortgage each month?

\$150 or less	1
\$151 - 300	2
\$301 - 600	3
\$601 - 900	4
\$901 - 1,200	5
\$1,201 - 1,500	6
More than \$1,500	7
Not sure or no response	9

21. Does the housing authority own your housing?

Yes	1
No	2
Not sure or no response	9

22. If you are renting, does your rent include utilities?

Yes	1
No	2
Not sure or no response	9

23. If you are renting, is your rent subsidized? *(For example: Section 8, Section 7087 or rent vouchers)*

Yes	1
No	2
Not sure or no response	9

24. **(Homeowners only)** Are you aware of any programs to help you finance home repairs?

Yes	1
No	2
Not sure or no response	9

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25. What type of building do you live in?	
Single family house	1
Two-family house or duplex	2
Three or more family house (attached)	3
Building with four or more apartments	4
Not sure or no response	9

26. Is your home in need of repairs or improvements?	
Yes	1
No	2
Not sure or no response	9

Employment

27. Which of the following best describes your situation?	
Working full time (Skip to Question 30)	1
Working part time (Skip to Question 30)	2
Own business (Skip to Question 30)	3
A homemaker (Skip to Question 34)	4
Unemployed	5
Retired (Skip to Question 34)	6
Not sure or no response	9

<i>(If unemployed)</i>	
28. How long have you been out of work?	
Less than 6 months	1
6 - 12 months	2
More than 12 months	3
Not sure or no response	9

29. What are the reasons for your current unemployment?	
Need G.E.D. (high school diploma)	1
Need job or skill training	2
Lack of transportation	3
Need child care	4
Taking care of parents	5
Limited job opportunities	6
Disability	7
Other	9

<i>(If working)</i>	
30. Do you work . . .	
In your immediate neighborhood	1
In the city of:	2
In:	3
Not sure or no response	9

31. How do you usually get to work?	
Car, van, truck, motorcycle	1
Bus, train	2
Taxicab	3
Bicycle	4
Walk	5
Work at home	6
Other	7
Not sure or no response	9

32. What kind of business or industry do you work in? *(For example, college, hospital, government, manufacturing plant, research and development, restaurant, retail store).*

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40. Do you speak a language other than English at home?

Yes	1
No (Skip to Question 43)	2
Not sure or no response	9

41. If so, what language?

Cambodian	1
Portuguese	5
Chinese	2
Spanish	6
Creole (Haitian)	3
Native American	7
French	4
No response	9
Other	

42. What is the highest grade or year of school you have completed?

Eighth grade or less	1
Some high school	2
High school grad or GED	3
Some college or technical school	4
College or technical school grad	5
Post grad or professional degree	6
No response	9

43. Did anyone in your household drop out of school?

Yes	1
No	2
Not sure or no response	9

44. If so, did they return to complete their studies?

Yes	1
No	2
Not sure or no response	9

45. Do you have any children enrolled in school?

Yes	1
No	2
Not sure or no response	9

46. What is your age (within the following ranges)?

15-19 years	1
20-34 years	2
35-44 years	3
45-54 years	4
55-64 years	5
65+ years	6
No response	9

47. How many people in your household are in the following age groups?

0-4 years:	1
5-14:	2
15-19:	3
20-34:	4
35-44:	5
45-54:	6
55-64:	7
65+ years:	9
No response:	

48. For household members who are age 65 or older, is there a need for assisted-living services?

Yes	1
No	2
Not sure	3
No response	9

49. Does anyone in your household receive Medicare or Medicaid?

Yes 1

No 2

If yes, how many?

50. Are any members of your household in need of supportive social services (*alcohol treatment, drug treatment, domestic violence, family planning, etc.*)?

Yes 1

No 2

If yes, how many?

51. What type of treatment is needed?

Alcohol 1

Drug 2

Domestic violence 3

Family planning 4

Other:

52. How many people live in your household? Include everyone staying or visiting who has no other home. Include family members away at school or military service.

Number of people:

53. Last year, what was the total yearly income of your **household** from all sources?

\$6,000 or less 1

\$6,000 - 11,000 2

\$11,001 - 15,000 3

\$15,001 - 20,000 4

\$20,001 - 25,000 5

\$25,001 - 30,000 6

\$30,001 - 35,000 7

\$35,001 - 40,000 8

\$40,001 - 45,000 9

\$45,001 - 50,000 10

\$50,001 or more 11

33. What kind of work do you do? (For example, registered nurse, assembler, sales clerk, bookkeeper) (If the respondent works more than one job, use the one job worked most.)

34. What kind of job skills do you currently have?

Computer	1
Construction	2
Accounting	3
Teaching	4
Law	5
Retail	6
Administrative or secretarial	7
Health care	8
Child care	9
Technical (automotive)	10
Finance (banking)	11
Not sure	12
Other	

35. Last year was your income derived from:

Wages or salaries (including own business)	1
Social Security, pensions, annuities, or other retirement income	2
Public assistance such as AFDC, or welfare	3
Scholarships, stipends, support from family or friends	4
Child support or alimony	5
Other	6
Not sure or no response	9

Household

36. How long have you lived at your current address?

Less than one year	1
1 - 5 years	2
6 - 10 years	3
11 - 20 years	4
21 years or more	5
Not sure or no response	9

37. How would you describe your household? Are you...


A couple with children	1
A couple without children	2
A single parent	3
Roommates	4
A single person living alone	5
Two or more families sharing living quarters	6
Not sure or no response	9

38. Are you . . .

American Indian, Eskimo, or Aleutian	1
Black	2
Asian or Pacific Islander	3
White	4
Not sure or no response	9


39. Are you of Spanish or Hispanic origin?

Yes, Mexican-American or Chicano	1
Yes, Puerto Rican	2
Yes, Cuban	3
Yes, Central American	4
Yes, other Spanish or Hispanic	5
No, (not Spanish or Hispanic)	6



“With new housing, people who have moved because of the housing shortage could return and fully participate in their tradition and culture.”

*Tammie Mirabel, Executive Director
Taos Pueblo Housing*





ISBN 000-0-00-000000-0



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Placeholder